

Kansas Register

Ron Thornburgh, Secretary of State

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State of Kansas

Workforce Investment Partnership Council**Notice of Meeting**

The Kansas Workforce Investment Partnership Council will meet at 9 a.m. Friday, September 24, at the Pozvez Education Center, 1505 S.W. 8th, first floor, Centennial Rooms B and C, Topeka. The meeting is open to the public. For more information, contact Monica Hernandez at (785) 296-6043.

Richard E. Beyer
Secretary of Human Resources

Doc. No. 024286

State of Kansas

Legislative Administrative Services**Request for Proposals**

The Division of Legislative Administrative Services announces the release of a request for proposals by the Legislative Coordinating Council for project management services. This request is for a qualified project manager to provide project design for a document management system (DMS). The purpose of the project is to provide an implementation plan for the DMS; DMS acquisition, development, integration and testing; and project coordination, tactical management and staff training for the DMS.

Vendors interested in receiving a request for proposal should contact Jeff Russell, Director, Legislative Administrative Services, Room 511-S, State Capitol, 300 S.W. 10th Ave., Topeka, 66612, (785) 296-2391, fax (785) 296-1153. Completed proposals must be received not later than 5 p.m. October 18.

Jeff Russell
Director

Doc. No. 024300

State of Kansas

Board of Emergency Medical Services**Notice of Meeting**

The Board of Emergency Medical Services will meet at 9 a.m. Friday, October 1, at the Hays Medical Center Conference Center, 2220 Canterbury Road, Hays. Committee meetings will begin at noon Thursday, September 30. Agenda items include committee reports, EMSC grant update, budget update and possible action on proposed regulations.

All meetings of the board are open to the public. For more information, contact the administrator at 109 S.W. 6th, Topeka, 66603, (785) 296-7296.

David Lake
Executive Director

Doc. No. 024305

State of Kansas

Legislative Research Department**Request for Proposals**

The Kansas Legislative Research Department announces the release of a request for proposals by the Legislative Coordinating Council for redistricting support services. This request is for a vendor or vendors to provide database development, consultation and software to support the 2001-2002 legislative and congressional redistricting in Kansas.

Vendors interested in receiving an RFP should contact Mary Galligan, Principal Analyst, Kansas Legislative Research Department, Room 545-N, State Capitol, 300 S.W. 10th Ave., Topeka, 66612, (785) 296-3181, fax (785) 296-3824. Completed proposals must be received not later than 5 p.m. November 1.

Ben Barrett
Director

Doc. No. 024301

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Room 233-N, State Capitol
(785) 296-3489
Fax (785) 291-3051

State of Kansas

Secretary of State

Executive Appointments

Executive appointments made by the Governor, and in some cases by other state officials, are filed with the Secretary of State's office. A complete listing of Kansas state agencies, boards and commissions are included in the Kansas Directory, published by the Secretary of State. The directory also is available on the Secretary of State's website at www.kssos.org. The following appointments, which are effective immediately unless otherwise specified, were recently filed with the Secretary of State:

State Representative, 23rd District

Judith L. Morrison, 10323 W. 69th St., Shawnee, 66203. Term expires when a successor is elected and qualifies according to law. Succeeds Clifford Franklin, resigned.

District Judge, 29th Judicial District,
Division 11

David W. Boal, 748 Ann Ave., Kansas City, KS 66101. Succeeds Bill D. Robinson, Jr.

Kansas Planning Council on
Developmental Disabilities Services

Denise Clemonds, 503 S. Kansas Ave., Topeka, 66603. Serves at the pleasure of the Governor. Succeeds Melanie Starns.

Dr. Alexa Pochowski, 120 S.E. 10th Ave., Topeka, 66612. Serves at the pleasure of the Governor. Succeeds Michael Remus.

Commission on Emergency Planning
and Response

(Executive Reorganization Order No. 29)

Jerry M. Davis, 603 W. Thompson, Garden City, 67846. Term expires June 30, 2002.

Randall C. Duncan, 535 N. Main, Suite B-10, Wichita, 67203. Term expires June 30, 2001.

Dean Forster, 6635 S.W. 27th, Topeka, 66614. Term expires June 30, 2002.

Dr. Lyle J. Noordhoek, 2509 Felten, Hays, 67601. Term expires June 30, 2002.

Tim R. Norton, 200 Timberlane Drive, Haysville, 67060. Term expires June 30, 2001.

Karen S. Schuyler, 440 N. 9th, Lawrence, 66044. Term expires June 30, 2002.

Clay C. Warren, 1110 S.W. Ottawa Trail, Topeka, 66615. Term expires June 30, 2001.

Advisory Group on Juvenile Justice
and Delinquency Prevention

(1999 Session Laws of Kansas, Chapter 156)

Karen Arnold-Burger, 12400 Foster, Shawnee Mission, 66213. Term expires June 30, 2002.

Elizabeth C. Baehner, 6000 Lamar, Suite 130, Shawnee Mission, 66202. Term expires June 30, 2002.

Michael C. Bodensteiner, P.O. Box 208, Weir, 66782. Term expires June 30, 2001.

Kathy Bowman, Route 2, Box 72, Larned, 67550. Term expires June 30, 2002.

Brice C. Bradshaw, 8016 Perry St., #189, Shawnee Mission, 66204. Term expires June 30, 2001.

Roderick L. Bremby, 4616 Woodridge Drive, Lawrence, 66049. Term expires June 30, 2003.

Ann P. Carpenter, 6965 S.W. 18th, El Dorado, 67042. Term expires June 30, 2003.

Irene S. Caudillo, 3540 Rainbow Blvd., Apt. 317, Kansas City, KS 66103. Term expires June 30, 2002.

Dr. Delores E. Craig-Moreland, 10813 E. 47th St. South, Derby, 67037. Term expires June 30, 2002.

Larry Dixon, 1833 Elmdale, Junction City, 66441. Term expires June 30, 2003.

Mark G. Gleeson, 925 W. 29th, Lawrence, 66046. Term expires June 30, 2001.

Karen Griffiths, 607 Sunset, Norton, 67654. Term expires June 30, 2001.

Russell Jennings, P.O. Box 295, Lakin, 67860. Term expires June 30, 2001.

Nancy J. Lindberg, 5717 S.W. 31st Terrace, Topeka, 66614. Term expires June 30, 2001.

Glenda R. Martens, 7055 Blueberry Lane, Derby, 67037. Term expires June 30, 2003.

Jasmin Messenger, 706 Sturbridge Court, Lawrence, 66049. Term expires June 30, 2001.

Stephen L. Moon, Achievement Place Inc., 1320 Haskell Ave., Lawrence, 66044. Term expires June 30, 2003.

Carolyn H. Patterson, 9 Downing Road, Hutchinson, 67502. Term expires June 30, 2002.

Reginald L. Robinson, Vice Chair, 4210 W. 13th, Lawrence, 66049. Term expires June 30, 2003.

Linette M. Schaller, 2902 Maralane Ave., Apt. C, Dodge City, 67801. Term expires June 30, 2002.

Tosha Webster, 5821 S.W. 26th Terrace, Topeka, 66614. Term expires June 30, 2002.

Shelly L. Williams, 609 De Hoff Drive, Manhattan, 66502. Term expires June 30, 2003.

Michael J. Youngken, Chair, 135 S. Kansas Ave., Olathe, 66061. Term expires June 30, 2001.

Military Disability Board

Col. Jonathan P. Small, 1931 S.W. Indian Woods Lane, Topeka, 66611. Serves at the pleasure of the Governor. Succeeds Ronald Tincher.

Northwest Kansas Regional Library System

Mary R. Hendricks, Route 1, Box 93, WaKeeney, 67672. Term expires June 30, 2003. Succeeds Myrna Schlegel.

Ron Thornburgh
Secretary of State

State of Kansas

Legislature
Interim Committee Schedule

The following committee meetings have been scheduled during the period of September 20 through October 3:

Date	Room	Time	Committee	Agenda
September 20	531-N	10:00 a.m.	Joint Committee on Special Claims Against the State	Hearings on claims filed to date.
September 21	531-N	9:00 a.m.		
September 20	ESU	10:00 a.m.	Legislative Educational Planning Committee	20th: Teacher prep. for technology-meet at Emporia State University.
September 21	519-S	9:00 a.m.		21st: Teacher prep. for technology, continued; professional scholarship programs (1999 HB 2014).
September 22	123-S	10:00 a.m.	Legislative Budget Committee	22nd: a.m.—State general fund year-end reports; status report on home- and community-based services for the frail elderly by the Dept. on Aging.
September 23	123-S	9:00 a.m.		1:30 p.m.—Room 855, LSOB—Video conference with Dept. of Public Safety Agencies in other states.
				23rd: State general fund ending balances; status report on privatization activities of SRS; status report by Attorney General Stovall on tobacco, water and Microsoft litigation.
September 22	514-S	10:00 a.m.	Special Committee on Education	22nd: Presentations and committee discussion on Topic #2—Development of State Technology Infrastructure Backbone to Connect Educational Institutions.
September 23	514-S	9:00 a.m.		23rd: Committee discussion on Topic #1—New Methodologies for Delivering Instructional Services to K-12 Students; continued discussion on Topic #2; and possible recommendations on Topics #1 and #2.
September 23	519-S	10:00 a.m.	Task Force on the Providers of Mental Health Services	23rd: Social work, p.r.n.; confidentiality and supervisory hours.
September 24	519-S	9:00 a.m.		24th: Medicaid reimbursement for mental health professionals. Further agenda unavailable.
September 22	531-N	10:00 a.m.	Joint Committee on Health Care Reform Legislative Oversight	Alternative health care providers.
September 23	531-N	9:30 a.m.		
September 23	Kansas City	10:00 a.m.	Joint Committee on Arts and Cultural Resources	23rd: Wyandotte High School, Azteca Mural, K.C. Club, Tour of Union Station, Johnson County Museum of History, Mahaffie Stagecoach Stop and Farm.
September 24	Lawrence	10:15 a.m.		24th: Haskell Indian Nations University.
September 27	519-S	10:00 a.m.	SRS Transition Oversight Committee	Agenda not available.
September 28	519-S	9:00 a.m.		
September 28	514-S	10:00 a.m.	Joint Committee on State-Tribal Relations	Visits to reservations.
September 29	514-S	9:00 a.m.		
September 28	PSU	10:00 a.m.	Joint Committee on Economic Development	28th: Housing issues.
September 29		9:00 a.m.		29th: Update on Business and Technology Institute and tour of Kansas Technology Center.

September 29	513-N	9:00 a.m.	Task Force on Rail Passenger Service in Kansas	Agenda not available.
September 29	PSU	9:00 a.m.	House Appropriations Committee	Agenda not available.

Jeff Russell
Director of Legislative
Administrative Services

Doc. No. 024297

State of Kansas Pooled Money Investment Board

Notice of Investment Rates

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 1998 Supp. 12-1675(b)(c)(d), and K.S.A. 75-4201(l) and 75-4209(a)(1)(B).

Effective 9-13-99 through 9-19-99	
Term	Rate
1-89 days	5.19%
3 months	4.93%
6 months	5.21%
9 months	5.33%
12 months	5.43%
18 months	5.62%
24 months	5.67%

Derl S. Treff
Director of Investments

Doc. No. 024285

State of Kansas Kansas Insurance Department

Notice of Change in Pharmacy Networks

Pursuant to K.S.A. 40-2,153, the Kansas Commissioner of Insurance is publishing notice that a change has occurred in the following pharmacy networks in the State of Kansas:

Principal Health Care Pharmacy Network has notified the Insurance Department of the following addition to its pharmacy network:

Pharmacy Name	County	Effective Date
Pope Drug	Greenwood	not available

United HealthCare of the Midwest, Inc. Pharmacy Network has notified the department of the following additions to its pharmacy network:

Pharmacy Name	City	Effective Date
Target Pharmacy #091	Wichita	July 1999
RMS, Inc.	Overland Park	July 1999

Questions should be directed to Rebecca Sanders at the Kansas Insurance Department, (785) 296-3071.

Kathleen Sebelius
Kansas Insurance Commissioner

Doc. No. 024299

State of Kansas Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Lafarge Corporation has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to add rock processing equipment. Emissions of particulate matter (PM) and particulate matter less than 10 microns in diameter (PM-10) were evaluated during the permit review process.

Lafarge Corporation, Fredonia, owns and operates the stationary source located at South Cement Road, Fredonia, at which the new rock handling system is to be installed in the fall of 1999.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during review of the permit application is available for public inspection during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office, or Lynelle Stranghoner, (316) 431-2390, at the KDHE Southeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Herbert Buckland, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision written comments must be received by the close of business October 18.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business October 18 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024303

State of Kansas

Speech-Language Pathology and
Audiology Advisory Board

Notice of Meeting

The Speech-Language Pathology and Audiology Advisory Board will meet at 2 p.m. Friday, October 1, in the Johnson County Suite, Room 1022, Overland Park Marriott, 10800 Metcalf, Overland Park.

Lesla Bray, Director
Health Occupations Credentialing

Doc. No. 024290

State of Kansas

Department of Health
and EnvironmentNotice Concerning Kansas
Water Pollution Control Permits

In accordance with Kansas Administrative Regulations 28-16-57 through 63, 28-18-1 through 15, 28-18a-1 through 32, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared and/or permit applications have been received for discharges to the waters of the United States and the State of Kansas for the class of discharges described below. The determinations for permit content are based on staff review, applying the appropriate standards, regulations and effluent limitations of the State of Kansas and the EPA, and when issued will result in a State Water Pollution Control Permit and National Pollutant Discharge Elimination System Authorization subject to certain conditions.

All Kansas Department of Health and Environment district office addresses and telephone numbers are listed below.

Public Notice No. KS-AG-99-129

Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Byron Lehman dba Lehman Farms, LLC 5309 N. Meridian Newton, KS 67114	SE/4 of Section 25, T22S, R1W, Harvey County	Little Arkansas River Basin

Kansas Permit No. A-LAHV-M010

This is a new permit to permit existing and additional waste control facilities for 225 head (315 animal units) of mature dairy cows at an existing dairy.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: The approved waste management plan shall be adhered to as a condition of this permit. Dewatering equipment shall be obtained within three months of the effective date of the permit. The lagoon shall not be utilized until the department has approved the liner integrity testing. Failure to complete the approved construction within two years shall void the department's approval and the permittee shall resubmit the application for the department's approval.

Public Notice No. KS-99-133/139

Name and Address of Applicant	Waterway	Type of Discharge
City of Baxter Springs P.O. Box 577 Baxter Springs, KS 66713	Spring River	Treated domestic wastewater
Kansas Permit No. M-NE06-0001		Federal Permit No. KS0045934

Legal: SW¼, S6, T35S, R25E, Cherokee Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids and pH. Monitoring for ammonia and fecal coliform will be required annually. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, KAR 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
City of Beloit P.O. Box 567 Beloit, KS 67420	Solomon River	Treated domestic wastewater
Kansas Permit No. M-SO05-IO01		Federal Permit No. KS0021903

Legal: NE¼, S16, T7S, R7W, Mitchell Co.

Facility Description: The proposed action is to reissue an existing permit for an existing mechanical plant treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, fecal coliform, and pH; and monitoring for chlorides and flow. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, KAR 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
City of Corning P.O. Box 96 Corning, KS 66417	Vermillion River via Vermillion Creek	Treated domestic wastewater
Kansas Permit No. M-KS94-0001		Federal Permit No. KS0081141

Legal: NW¼, S1, T5S, R12E, Nemaha Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids and pH. Monitoring for ammonia and fecal coliform will be required annually. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, KAR 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
City of Courtland P.O. Box 147 Courtland, KS 66939	Republican River via Beaver Creek via unnamed tributary	Treated domestic Wastewater

Kansas Permit No. M-LR09-0001 Federal Permit No. KS0083399
Legal: SW¼, S21, T3S, R5W, Republic Co.

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids and pH. Monitoring for ammonia and fecal coliform will be required annually. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, KAR 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
City of Hoxie P.O. Box 898 Hoxie, KS 67740	South fork Solomon River via Sand Creek	Treated domestic wastewater
Kansas Permit No. M-SO20-0001		Federal Permit No. KS0030562

Legal: NW¼, S22, T8S, R28W, Sheridan Co.

Facility Description: The proposed action is to reissue an existing permit for an existing mechanical plant treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids and pH; and monitoring for ammonia, fecal coliform and flow. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, KAR 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
Johnson Co. Unified Wastewater Districts Timber Wolf Estates WWTF 7311 W. 130th St., Suite 100 Overland Park, KS 66213	Blue River via Wolf Creek via unnamed tributary	Treated domestic wastewater
Kansas Permit No. M-MO14-0003 Federal Permit No. KS0082970		
Legal: SW¼, S33, T14S, R24E, Johnson Co.		

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids and pH. Monitoring for ammonia and fecal coliform will be required annually. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, KAR 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
Jack D. Jaro KOA Kampground Route 3, Box 42 Fort Scott, KS 66701	Marmaton River	Treated domestic wastewater
Kansas Permit No. C-MC11-0001 Federal Permit No. KS0079111		
Legal: NW¼, S19, T25S, R25E, Bourbon Co.		

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids and pH. Monitoring for ammonia and fecal coliform will be required annually. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, KAR 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Public Notice No. KS-EG-99-011

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for the use of the well(s) described below within the State of Kansas.

Name and Address of Applicant	Well Location
Williams Midstream Natural Gas Liquids, Inc. 1426 5th Ave. McPherson, KS 67460-6011	

Facility Name: Conway Storage West, Conway, KS	SW NE SW S24, T19S, R5W,
Well Identification #2	McPherson Co.
	1820 ft. fs1 and 3630 ft. fel of SE Corner of Section

Facility Description: The site is an underground storage facility for liquid petroleum gas products. The permittee is authorized to inject nonhazardous liquid waste from this facility consisting of waste brines from the underground hydrocarbon storage operation.

Persons wishing to comment on or object to the draft permits and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment if they wish to have the comments or

objections considered in the decision making process. Comments or objections should be submitted to the attention of Dena Endsley for agricultural permits or applications, or to the permit clerk for all other permits, at the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka, 66620.

All comments regarding the draft permit or application notice postmarked or received on or before October 16 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-99-129, KS-99-133/139, KS-EG-99-011) and name of applicant/application as listed when preparing comments.

If no objections are received during the public notice period regarding any proposed permit, the Secretary of Health and Environment will issue the final determination regarding issuance or denial of the proposed permit. If response to this notice indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC). Media coordination for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

For agricultural permits and applications, a copy of the permit application, supporting documentation, and a KDHE-developed fact sheet, if appropriate, is available for review at the appropriate district office:

Northwest District Office, 2301 E. 13th, Hays, 67601-2651, (785) 625-5664
 North Central District Office, 2501 Market Place, Salina, 67401-7699, (785) 827-9639
 Northeast District Office, 800 W. 24th, Lawrence, 66046-4417, (785) 842-4600
 Southwest District Office, 302 W. McArtor Road, Dodge City, 67801-6098, (316) 225-0596
 South Central District Office, 130 S. Market, 6th Floor, Wichita, 67202-3802, (316) 337-6020
 Southeast District Office, 1500 W. 7th, Chanute, 66720, (316) 431-2390

Plans and documents for all new and expansions of existing swine facilities also may be reviewed on the Internet at www.kdhe.state.ks.us.

For all other proposed permits, the draft permit(s), including, proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information, are on file and may be inspected at the offices of the Kansas Department of Health and Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka.

Division of Environment offices are open from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays. These documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024296

State of Kansas

Kansas State University

Notice to Bidders

Sealed bids for the item listed below will be received by the Kansas State University Purchasing Office, Manhattan, until 2 p.m. local time on the date indicated and then will be publicly opened. Interested bidders may call (785) 532-6214 or fax (785) 532-5577 for additional information:

Friday, October 1, 1999

#40015

Recruiting database upgrade/replacement and maintenance

William H. Sesler
Director of Purchases

Doc. No. 024304

State of Kansas

Department of Health
and Environment

Request for Proposals

A FREE to Know provider inreach/outreach and breast cancer screening recruitment grant program has been developed as a part of the FREE to Know Program (Kansas Breast and Cervical Cancer Initiative) to assist program providers in offering support and funding for activities/interventions that will ensure women age 50-64, who are at 200 percent poverty level or below, receive free breast cancer screening services. Such services would include addressing barriers to receiving screening services, such as transportation, literacy, language, etc.

FREE to Know provider grants of up to \$10,000 each will be awarded. Applications addressing minority or rural women will receive priority consideration.

Applicants wishing to be considered for funding need to indicate a minimum number of program-eligible women to be recruited, enrolled and screened as a direct result of recruitment efforts.

Funded proposals will be located at current FTK screening provider sites that demonstrate a foundation of partnerships of interested organizations and/or individuals committed to improving breast cancer screening rates.

Applications must be postmarked not later than October 22, and award notification will be made prior to November 22. Funds must be expended by November 30, 2000 (program activity may continue beyond those dates).

Additional application materials can be obtained from the Kansas Department of Health and Environment by contacting Penny Wilden, Bureau of Health Promotion, Suite 901, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, (785) 296-1207.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024292

State of Kansas

Department of Administration
Division of Purchases

Notice to Bidders

Sealed bids for the following items will be received by the Director of Purchases, Room 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 296-2377 for additional information:

Monday, September 27, 1999

00535

University of Kansas—600 MHZ nuclear magnetic resonance spectrometer

Tuesday, September 28, 1999

00539

Adjutant General's Department—All labor and materials to reroof Building AASF, Salina

Wednesday, September 29, 1999

00544

Department of Wildlife and Parks—Construct sewage lift and install water line, Kanopolis

00547

Department of Wildlife and Parks—Furnish and install boat ramp and landing beach, Paola

Thursday, September 30, 1999

00519

University of Kansas, Regents Institutions—Silicon graphics computer workstations, services, upgrades, software, accessories

Tuesday, October 5, 1999

A-8634

Department of Transportation—Addition to Troop H Headquarters, Chanute

Thursday, October 7, 1999

A-8756

Department of Transportation—RV campsite improvements, Elk City State Park, Montgomery County

Thursday, October 14, 1999

A-8890

Lansing Correctional Facility—Replacement of locking system, Cellhouse A

Request for Proposals

Friday, October 1, 1999

00481

Develop a Juvenile Correctional Facility Training Plan for the Juvenile Justice Authority

Tuesday, October 12, 1999

00528

Child support enforcement services for the Department of Social and Rehabilitation Services

John T. Houlihan
Director of Purchases

Doc. No. 024302

State of Kansas

Social and Rehabilitation Services

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 10 a.m. Wednesday, December 1, in the SRS board room, sixth floor, Docking State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of amended changes to an existing rule and regulation on a permanent basis effective January 1, 2000. Telephone conference will not be available. This 60-day notice of the public hearing shall constitute a public comment period for the proposed regulation. All interested parties may submit written comments prior to or during the public hearing to Hope Burns, Office of the Secretary for SRS, Room 603-N, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612. All interested parties will be given a reasonable opportunity to present their views, but it may be necessary to request each participant to limit any oral presentation to five minutes. The phrase "Federal Mandate" following an item indicates that the change is required by federal policy. Optional changes in regulations related to federal programs are subject to approval by the U.S. Department of Health and Human Services.

Copies of the regulation and the economic impact statement may be obtained by contacting Hope Burns at (785) 296-3969.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulation and economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Hope Burns or by calling the Kansas Relay Center at (800) 766-3777.

The adoption of the regulation will take place at 11 a.m. Monday, December 6, in the SRS executive conference room, 603-N, Docking State Office Building. Telephone conference will not be available.

A summary of the proposed regulation and the economic impact follows.

Article 44.—SUPPORT ENFORCEMENT

30-44-2. Pursuant to the provisions of K.S.A. 39-756, the Secretary of Social and Rehabilitation Services submits the following description of the economic impact of the above-referenced regulation:

(1) The proposed regulation amends the standardized cost recovery fee for nonpublic assistance support enforcement cases (non-PA cases) being administered by Child Support Enforcement (CSE).

Beginning January 1, 2000, the basic fee will increase from 2 percent to 4 percent of collections made in non-PA cases. The CSE program is partly funded by these cost recovery fees and by retained collections from public assistance cases. In recent years, changes in CSE remedies and procedures have done two things: (a) increased the complexity and cost of administering the CSE program, and (b) improved the program's ability to collect support for non-PA families. Simultaneously, revenues from retained collections in CSE's public assistance cases have shown a steady decline, increasing the need for alternate

funding. Changes scheduled to occur in 2000 at the federal level are expected to decrease those revenues further. In order to sustain the quality and level of CSE services, it is necessary to increase the modest non-PA cost recovery fee to 4 percent, beginning January 1, 2000.

Another change to the regulation makes incoming international cases exempt from the cost recovery fee, as required by federal law. Also, the time frame for reviewing special rates is changed from a fixed three-year period to an "as needed" basis, reflecting the fact that no changes have occurred in the list of such counties since that portion of the regulation was adopted. Obsolete language related to the former method of paying CSE contractors is being deleted to simplify the regulation and prevent confusion. Other text is being edited or deleted to improve the regulation's readability.

(2) The Child Support Enforcement Program is required to conform to federal requirements under Title IV-D of the Social Security Act. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 amended Title IV-D by adding a new provision that requires states to exempt incoming international non-PA cases from any IV-D fees the state may impose upon the obligee (42 U.S.C. §654(32)). States must adopt appropriate laws and procedures to remain in compliance with Title IV-D requirements.

If Kansas were to fail to implement federally required provisions, such as those concerning international cases, all federally IV-D funding could be withheld until the state plans were brought into conformity. Based on federal fiscal year 1998 figures, the penalty could total \$26.8 million for one year.

(3) The fee increase from 2 percent to 4 percent of collections will be borne by non-PA families in the form of a slight decrease in support payments disbursed to them. For example, the current fee deducted from a \$100 non-PA collection is \$2; under the amended regulation, the fee would be \$4. It should be noted that the most vulnerable families, those eligible for Temporary Assistance to Families (TAF) or other public assistance, will continue to be exempt from the cost recovery fee.

The fee increase will add approximately \$450,000 to CSE's net revenues in state fiscal year 2000 and \$900,000 in subsequent state fiscal years. It should be noted that the state is only permitted to keep 40 percent of the gross revenue from fees; 60 percent must be paid to the federal government.

Adoption of the remainder of this regulation is not expected to create additional costs for any person or agency. Incoming international requests for CSE services are very rare and are not expected to increase. As noted, no changes to the list of counties with special fee rates have been made, and none are anticipated.

(4) Adjusting the non-PA fee to 4 percent will only partially address the increasing need for CSE funding. Alternatives include seeking additional appropriations, which cannot occur until the next legislative session, or cutbacks in services or staff. There is very little opportunity to reduce the scope of CSE services or to postpone costly undertakings, such as automation, because CSE continues to be closely regulated under federal law. Pres-

(continued)

ently, CSE maintains 154,000 cases serving over a quarter million Kansans. Given the sizeable caseload and the level of services required, staff reductions are not a practical solution.

To meet the federal requirement exempting international CSE cases from fees, the only alternative would be enactment of legislation. Amendment of the existing regulation was judged more cost effective, given the technical nature of the requirement and the minimal changes involved.

(5) The proposed regulation is not expected to affect the revenues of cities, counties or school districts, nor does it impose functions or responsibilities on cities, counties or school districts that will increase their expenditures or fiscal liability.

Rochelle Chronister
Secretary of Social and
Rehabilitation Services

Doc. No. 024287

State of Kansas

Attorney General

Opinion 99-37

Counties and County Officers—Hospitals and Related Facilities—County Hospitals; Revenue Bonds; Pledge of Certain Revenues; Covenants and Agreements. H. Scott Beims, Rawlins County Attorney, Atwood, August 2, 1999.

Under K.S.A. 19-4601 *et seq.* and the authorizing bond resolution implementing the Act, the Rawlins County Commission must make full and prompt payments on revenue bonds issued to construct, equip and furnish the limited care residential facility portion of the Rawlins County Health Center. Payments must be made from gross revenues generated by the entire hospital facility after payment only of operation and maintenance expenses and exclusive of special tax levies. Trust funds that are not specifically restricted to a particular purpose must be mingled with gross revenues available to make bond principal and interest payments. Cited herein: K.S.A. 19-4601; 19-4605; 19-4606; 19-4617; 19-4620. NLU

Opinion 99-38

Elections—Recall of Elected Officials—Recall of Local Officers; Petition; Number of Signatures. Stan Morgan, Riley County Counselor, Manhattan, August 31, 1999.

By referring to "such office" in K.S.A. 25-4325, the Legislature intended that the number of signatures required on a petition seeking the recall of a local elected official be based on a percentage of the number of votes cast in the last general election at which an officer was elected from the same member district from which the officer sought to be recalled was elected. In the case of a petition seeking the recall of a city commissioner who was elected at-large in the 1997 general election, the petition must contain signatures equal in number to not less than 40 percent of the votes cast at the 1999 general election for all at-large candidates for city commissioner divided by the number of persons elected in the 1999 general election

to the office of city commissioner for at-large districts. Cited herein: K.S.A. 25-4301; 25-4318; 25-4325; 71-1407; 72-8009; Kan. Const., Art. 4, § 3; L. 1976, Ch. 177, §§ 5, 7; L. 1976, Ch. 178, §§ 25, 32; L. 1913, Ch. 336, § 1. RDS

Opinion 99-39

Townships and Township Officers—Hospitals and Health Care Facilities—Methods to Select Members of Board; Change in Method; Term of Office. H. Phillip Elwood, Counsel, Satanta Hospital District, Topeka, September 2, 1999.

If a resolution changing the method of selection of members of a board of trustees of a hospital district established pursuant to K.S.A. 80-251 *et seq.* from the methods set forth in subsection (a)(1) or (a)(2) of K.S.A. 80-2508 to election pursuant to subsection (a)(3) or (a)(4) of K.S.A. 80-2508 fails to clearly establish whether the term of office for the elected trustees is to be three years or four years, the elected trustees are deemed to serve terms of three years. Exercising authority conferred under K.S.A. 80-2508, the members of the board may then by majority vote change the term of office to four years. Cited herein: K.S.A. 80-2501; 80-2504; 80-2506; 80-2508. RDS.

Opinion 99-40

Cities and Municipalities—Emergency Telephone Services—Emergency Telephone Tax; Use of Proceeds. William A. Taylor III, Cowley County Counselor, Winfield, September 2, 1999.

Proceeds from the emergency telephone tax created by K.S.A. 1998 Supp. 12-5302 may not be used for the purchase of a data transmission network or the network's monthly charges. Moreover, such proceeds may not be used for the costs involved in training civil defense personnel on the creation and operation of the map-info database. However, if employees of a county attorney's office are part of the law enforcement response to 911 emergencies, proceeds of the emergency telephone tax may be used to pay for the monthly recurring charges for pagers used by that office. Cited herein: K.S.A. 1998 Supp. 12-5302; 12-5304. MF

Opinion 99-41

State Departments; Public Officers and Employees—Kansas Tort Claims Act—Groundwater Management District—Application of Kansas Tort Claims Act. Representative Melvin Minor, 114th District, Stafford, September 2, 1999.

A groundwater management district (GMD) organized pursuant to K.S.A. 82a-1020 *et seq.* as a body politic and corporate is a taxing subdivision of the state, and the statutory functions of a GMD's board of directors and employees are governmental in nature. Accordingly, the Kansas Tort Claims Act applies to a GMD, its directors and employees. Cited herein: K.S.A. 75-6101; 75-6103; 79-1814; 82a-1027; 82a-1027; 82a-1028; 82a-1030. GE

Carla J. Stovall
Attorney General

Doc. No. 024295

State of Kansas

Kansas Development Finance Authority

Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, September 30, in the conference room in the offices of Kansas Development Finance Authority, Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, on the proposal for the Kansas Development Finance Authority to issue its Agricultural Development Revenue Bonds for the projects numbered below in the respective maximum principal amount. Each bond will be issued to assist the respective borrower named below (who will be the owner and operator of the respective project) to finance the cost in the amount of the bond of acquiring the project or for the purpose of refunding a bond previously issued to finance the project. Each project shall be located as shown:

Project No. 000415, Maximum Principal Amount: \$45,685.28. Owner/Operator: James and Angela Wells. Description: Acquisition of 132 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is located at the West Half of the Southwest Quarter and Southeast Quarter of the Northwest Quarter of Section 1, Township 3 South, Range 19 West, Mound Township, Phillips County, approximately 5 miles west and 2.5 miles north of Phillipsburg.

Project No. 000422, Maximum Principal Amount: \$155,000. Owner/Operator: William R. and Patricia J. Weaver. Description: Acquisition of 425 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is located at Section 17, Township 7, Range 3, Cloud County; and Section 18, Township 7, Range 3, Cloud County, approximately 8 miles south of Concordia on Highway 81.

Each bond, when issued, will be a limited obligation of the Kansas Development Finance Authority and will not constitute a general obligation or indebtedness of the State of Kansas or any political subdivision thereof, including the Authority, nor will it be an indebtedness for which the faith and credit and taxing powers of the State of Kansas are pledged. Each bond will be payable solely from amounts received from the respective borrower, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on each bond when it shall become due.

All individuals who appear at the hearing will be given an opportunity to express their views, and all written comments previously filed with the Authority at its offices at Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, 66603, will be considered. Additional information regarding the projects described above may be obtained by contacting the Authority.

Any individual affected by any of the above-described projects may, at or prior to the hearing, file a written request with the authority that a local hearing be held on the proposal to issue a bond to finance said project. A local hearing, if requested, would be conducted in the county where the project in question is located.

Kenneth Frahm
President

State of Kansas

State Corporation Commission

Notice of Motor Carrier Hearings

The following motor carriers have filed various applications and are scheduled for hearing at 9:30 a.m. October 5 before the commission at its offices, 1500 S.W. Arrowhead Road, Topeka, as indicated below. All applications listed herein are for statewide authority, unless otherwise stated. This list does not include cases that have been continued from earlier assigned hearing dates for which parties of record have received notice.

Requests to inspect and copy the notices provided to the parties and questions in regard to these hearings should be addressed to the State Corporation Commission, Transportation Division, 1500 S.W. Arrowhead Road, Topeka, 66604-4027, (785) 271-3225 or 271-3151. The presiding officer for these matters is Paula Lentz, Assistant General Counsel, (785) 271-3279. Anyone needing special accommodations should give notice to the commission 10 days prior to the scheduled hearing date.

Attention should be directed to Kansas Administrative Regulation 82-1-228, "Rules of Practice and Procedure Before the Commission."

Applications for Certificate of Public Service:

Crude Marketing, Inc., 10801 Mastin, Suite 920, Overland Park, KS 66210; MC ID No. 131367; General commodities (except household goods and passengers).

Bruce W. Eskew, dba Eskew Engines, 406 S. Buffalo, Oberlin, KS 67749; MC ID No. 157333; Wrecked, disabled, repossessed and replacement vehicles.

General Pet Supply Midwest, LLC, 1659 S. Sabin, Wichita, KS 67209; MC ID No. 157329; Pet food and pet supplies.

Ronald Scott Heinen, dba Scott's Towing Service, 805 Elm St., Valley Falls, KS 66088; MC ID No. 157335; Wrecked, disabled, repossessed and replacement vehicles.

JT's Transports, Inc., 2410 E. 101st North, Valley Center, KS 67147; MC ID No. 157336; Automobiles.

Evan Koehn, dba ELK Trucking, Route 2, Box 8A, Lakin, KS 67860; MC ID No. 157332; William Barker, Attorney; General commodities (except household goods and hazardous materials).

Mike Kough, dba K Bar, 1110 County Road 290, Russell Springs, KS 67764; MC ID No. 157330; William Barker, Attorney; General commodities (except household goods and hazardous materials).

Edwin Krell, dba Krell Trucking Service, P.O. Box 513, Plankinton, SD 57368; MC ID No. 121668; Grain and livestock.

Muntz, Inc., 508 E. Cass, Rock Port, MO 64482; MC ID No. 139546; General commodities (except household goods).

David Taylor, dba Taylor Farms, Route 1, Box 162, Rich Hill, MO 64779; MC ID No. 157660; Grains and feed ingredients.

Ernest Wapellhorst, dba Ernie's Delivery Service, 1908 N. Abbey Road, Kingman, KS 67068-9801; MC ID No. 157334; General commodities (except household goods and hazardous materials).

Gregory Wilson, dba Thunder Trucks, 3700 Classen Blvd., Suite 250, Oklahoma City, OK 73118; MC ID No. 129061; General commodities (except explosives and household goods).

Brad L. Zimmerman, dba Zimmereman Trucking, Route 1, Box 144, Mullinville, KS 67109; MC ID No. 156794; Grain and livestock.

(continued)

Application for Certificate of Convenience and Necessity:

John D. Meade, 406 S.E. Market St., Topeka, KS 66607; MC ID No. 157331; Passengers in charter party service.

Application for Abandonment of Certificate of Public Service:

Wendell K. Zimmerman, dba Zimm's Farm, 1650 Avenue R, Sterling, KS 67579; MC ID No. 152399.

Jacquelyn S. Miller
Administrator
Transportation Division

Doc. No. 024298

State of Kansas

Department of Wildlife and Parks

Permanent Administrative Regulations

Article 7.—FISH AND FROGS

115-7-1. Fishing; legal equipment, methods of take and other provisions. (a) Legal equipment and methods for taking sport fish shall be the following:

- (1) Fishing lines with not more than two baited hooks or artificial lures per line;
- (2) trotlines;
- (3) setlines;
- (4) tip-ups; and
- (5) snagging for paddlefish in waters posted by the department as open to snagging of paddlefish, subject to the following requirements:

(A) Each paddlefish caught and landed shall be included in the creel and possession limit.

(B) Each individual fishing for paddlefish shall place all paddlefish caught on a stringer, cord, cable, or chain, or in a basket, sack, cage, or other holding device that shall be marked with the individual's name and address.

(C) Each individual with a filled creel limit shall cease all snagging activity in the paddlefish snagging area until the next calendar day.

(D) Each individual taking paddlefish during the snagging season shall transport each paddlefish taken to a check station established by the department, and each paddlefish shall be taken to the check station immediately upon the filling of the daily creel limit or upon cessation of the day's fishing activity.

(E) Each paddlefish checked shall have a numbered tag attached to its lower jaw at the check station.

(F) Each individual shall provide that person's name, address, and fishing license number to the check station attendant.

(b) Legal equipment and methods for taking non-sport fish shall be the following:

- (1) Fishing lines with not more than two baited hooks or artificial lures per line;
- (2) trotlines;
- (3) setlines;
- (4) tip-ups;

(5) bow and arrow with a barbed head and a line attached from bow to arrow;

(6) crossbow and arrow with barbed head and a line attached from arrow to crossbow;

(7) spear gun, without explosive charge, while skin or scuba diving. The spear, without explosive charge, shall be attached to the speargun or person by a line;

(8) snagging in waters posted by the department as open to snagging; and

(9) gigging.

(c) Dip nets and gaffs may be used to land any legally caught or hooked fish.

(d) Fish may be taken by any method designated by the secretary when a fish salvage order has been issued by the secretary through public notice or posting the area open to fish salvage.

(e) Fish may be taken with the aid of boats, depth finders, artificial lights, sound attracters, and scents.

(f) Fish may be taken by legal means from vehicles. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Dec. 26, 1989; amended Feb. 10, 1992; amended Oct. 1, 1999.)

115-7-5. Bullfrogs and turtles; legal equipment, methods of take and license requirements. (a) Legal equipment and methods for taking bullfrogs shall be the following:

- (1) Hand;
- (2) hand dip net;
- (3) hook and fishing line;
- (4) gig;
- (5) bow and arrow with barbed head and a line attached from arrow to bow; and
- (6) crossbow and arrow with barbed head and a line attached from arrow to crossbow.

(b) Legal equipment and methods for taking common snapping turtles and soft-shelled turtles shall be the following:

- (1) Hand;
- (2) hook and fishing line;
- (3) set line;
- (4) hand dip net;
- (5) seine;
- (6) turtle trap; and
- (7) gig.

(c) Artificial light and boats may be used while taking bullfrogs and turtles.

(d) A valid Kansas fishing license shall be required to take common snapping turtles and soft-shelled turtles. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807, K.S.A. 1998 Supp. 32-906, K.S.A. 32-919 and K.S.A. 32-1002; effective Dec. 26, 1989; amended July 30, 1990; amended Oct. 1, 1999.)

Article 18.—SPECIAL PERMITS

115-18-4. Permits for hunting from a vehicle; applications and requirements. (a) Any person with a disability as defined by K.S.A. 8-1,124, and amendments thereto, may apply to the secretary on forms provided by the department for a permit to hunt from a vehicle. Each applicant shall provide the following information:

- (1) Name of applicant;

- (2) address;
- (3) nature of the disability;
- (4) a report signed by an authority as specified in K.S.A. 8-1,125 and amendments thereto, on forms provided by the department, that describes the disability and specifies the disability duration; and

(5) other information as required by the secretary.

(b) For any person with a disability to whom an individual identification card has been issued, as defined in and under the authority of K.S.A. 8-1,125 and amendments thereto, the individual identification card shall serve as a permit to hunt from a vehicle. An individual identification card shall not be used as a permit to hunt from a vehicle under any of the following conditions:

(1) The individual identification card is no longer valid.

(2) The individual identification card was obtained through false pretenses.

(3) The disability for which the individual identification card was issued no longer exists.

(c) The permittee shall be in possession of the permit while hunting.

(d) The permit shall be valid statewide and only for the person to whom the permit was issued.

(e) The permit shall be valid for the time period specified in the permit as determined by the permanent or temporary nature of the disability.

(f) The holder of a permit to hunt from a vehicle may shoot from a nonmoving vehicle, but only in compliance with applicable state and federal laws and regulations.

(g) A permit for hunting from a vehicle may not be issued or may be revoked by the secretary for any of the following reasons:

(1) The disability does not meet the qualifications for the permit.

(2) The application is incomplete or contains false information.

(3) The disability under which the permit was issued no longer exists. If the secretary revokes a person's permit for any of the above reasons, then that person shall not use an individual identification card as a permit to hunt from a vehicle.

(h) Any person may assist the holder of a permit to hunt from a vehicle during the permit holder's hunting activity. A person assisting a holder of this permit shall not perform the actual shooting of wildlife for the permit holder. (Authorized by and implementing K.S.A. 32-931; effective Oct. 30, 1989; amended Nov. 15, 1993; amended Oct. 1, 1999.)

115-18-7. Use of crossbows for big game hunting by persons with disabilities; application, permit, and general provisions. (a) Any permanently disabled person qualified to hunt deer, antelope, elk, or wild turkey with a crossbow and desiring to obtain a crossbow permit shall apply to the secretary on forms provided by the department. Each applicant shall provide the following information:

- (1) Name of applicant;
- (2) address;
- (3) a physician's signed report, on forms provided by the department, describing the permanent disability and

certifying the applicant physically incapable of using a bow; and

(4) other information as required by the secretary.

(b) Any person with a temporary disability who would be qualified to hunt deer, antelope, elk, or wild turkey with a crossbow if the disability were permanent and who desires to obtain a temporary crossbow permit shall apply to the secretary on forms provided by the department. Each applicant shall provide the following information:

(1) Name of applicant;

(2) address;

(3) a physician's signed report, on forms provided by the department, describing the disability, certifying the applicant physically incapable of using a bow, and estimating the time period that the person is likely to be subject to the disability; and

(4) other information as required by the secretary. A temporary crossbow permit shall expire no more than three years from the date of issuance and shall state the expiration date on the face of the permit.

(c) An applicant may be required by the secretary to obtain, at department expense, a report from a second physician chosen by the secretary.

(d) A crossbow permit or a temporary crossbow permit may be refused issuance or may be revoked by the secretary for any of the following reasons:

(1) The disability does not meet qualifications for the permit.

(2) The application is incomplete or contains false information.

(3) The disability under which the permit was issued no longer exists.

(d) A crossbow permit or a temporary crossbow permit shall be valid statewide.

(e) A permittee may use a crossbow for hunting deer, antelope, elk, or wild turkey during any archery season established by the secretary for the big game species being hunted by the permittee. This provision shall be subject to applicable rules and regulations governing archery hunting of that big game species, including possession of a valid hunting permit issued by the department for that big game species, if required.

(f) Legal equipment for hunting any big game by crossbow shall consist of the following:

(1) Crossbows of not less than 125 pounds draw weight and without telescopic sights;

(2) arrows not less than 16 inches in length, equipped with broadhead points and all-metal cutting edges;

(3) lighted pin, dot, or holographic sights attached to the front of the bow, but no other electronic or chemical device attached to the crossbow or arrow;

(4) optical scopes or sights that project no visible light toward the target and do not electronically amplify visible or infrared light; and

(5) range-finding devices, if the system does not project visible light toward the target.

(g) Any person may assist the holder of a crossbow permit or a temporary crossbow permit during the permittee's hunting activity. A person assisting a holder of a permit shall not perform the actual shooting of the

(continued)

crossbow for the permittee. (Authorized by K.S.A. 32-807, K.S.A. 32-919, and K.S.A. 1998 Supp. 32-932; implementing K.S.A. 1998 Supp. 32-932; effective Oct. 30, 1989; amended, T-115-9-9-97, Sept. 9, 1997; amended Dec. 29, 1997; amended Oct. 1, 1999.)

115-18-13. Dark geese; management units, permits, and restrictions. (a) Dark geese shall include Canada geese, white-fronted geese, and black brant.

(b) The following dark goose management units shall be established for the taking of dark geese under special restrictions.

(1) Marais des Cygnes Valley; unit 1: that part of Kansas bounded by a line from the Kansas-Missouri state line west on state highway K-68 to its junction with federal highway US-169, then southwest on federal highway US-169 to its junction with state highway K-7, then south on state highway K-7 to its junction with state highway K-31, then east on state highway K-31 to its junction with federal highway US-69, then north on federal highway US-69 to its junction with state highway K-239, then east on state highway K-239 to its junction with the Kansas-Missouri state line, then north on the Kansas-Missouri state line to its junction with state highway K-68, except federal and state sanctuaries.

(2) Southeast; unit 2: that part of Kansas bounded by a line from the Kansas-Missouri state line east on federal highway US-160 to its junction with federal highway US-69, then north on federal highway US-69 to its junction with state highway K-39, then west on state highway K-39 to its junction with federal highway US-169, then south on federal highway US-169 to its junction with the Kansas-Oklahoma state line, then east on the Kansas-Oklahoma state line to its junction with the Kansas-Missouri state line, then north on the Kansas-Missouri state line to its junction with federal highway US-160, except federal and state sanctuaries.

(3) Flint Hills; unit 3: that part of Kansas bounded by a line from the junction of interstate highway I-35 and state highway K-57, then south and east on state highway K-57 to its junction with federal highway US-75, then south on federal highway US-75 to its junction with state highway K-39, then south and west on state highway K-39 to its junction with state highway K-96, then west on state highway K-96 to its junction with federal highway US-77, then north on federal highway US-77 to its junction with interstate highway I-70, then east on interstate highway I-70 to its junction with state highway K-99, then south and east on state highway K-99 to its junction with state highway K-31, then east on state highway K-31 to its junction with federal highway US-56, then east on federal highway US-56 to its junction with federal highway US-75, then south on federal highway US-75 to its junction with interstate highway I-35, then west on interstate highway I-35 to its junction with state highway K-57, except federal and state sanctuaries.

(c) Dark goose hunting in management units 1 and 2 shall be by permit only. This requirement, however, shall not apply on any date approved by the United States fish and wildlife service as a youth waterfowl hunting day.

(1) Each dark goose permit shall be valid only in the management unit for which the permit is issued. An individual may purchase only one permit per dark goose management unit.

(2) Each dark goose permit shall be nontransferable, and each permit shall be signed and dated by the permittee in order to be valid.

(3) Each dark goose permit shall expire on June 30 following the date of issuance.

(d) Dark goose hunting in management unit 2 shall require the possession of a state-issued carcass tag in addition to a dark goose permit. This requirement, however, shall not apply on any date approved by the United States fish and wildlife service as a youth waterfowl hunting day.

(1) The permittee shall attach the carcass tag to the leg of the goose immediately following the kill and before moving the carcass from the site of the kill. The carcass tag shall remain attached to the carcass until processed for consumption.

(2) Each carcass tag shall be nontransferable.

(3) Each carcass tag shall be valid for only one dark goose per carcass tag and shall expire on June 30 following the date of issuance.

(e) The statewide daily bag and possession limit for dark geese shall apply throughout the state, including dark goose management units.

(f) In addition to other penalties prescribed by law, each dark goose permit or carcass tag shall be invalid from the date of issuance if obtained by an individual through misrepresentation or unauthorized application. Each dark goose permit or carcass tag obtained by an individual in excess of the number of dark goose permits or carcass tags authorized shall be invalid from the date of issuance. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Aug. 15, 1994; amended Sept. 19, 1997; amended Sept. 25, 1998; amended Oct. 1, 1999.)

115-18-14. Nontoxic shot; statewide. (a) Each individual hunting with a shotgun for waterfowl, coot, rail, snipe, or sandhill crane shall possess and use only nontoxic shot.

(b) The following nontoxic shot materials shall be approved for the hunting of waterfowl, coot, rail, snipe, and sandhill crane:

(1) Steel shot;

(2) steel shot coated with any of the following materials:

(A) Copper;

(B) nickel;

(C) zinc chromate; or

(D) zinc chloride;

(3) bismuth-tin shot;

(4) tungsten-iron shot;

(5) tungsten-polymer shot;

(6) tungsten-matrix shot; and

(7) tin shot. (Authorized by K.S.A. 32-807; implementing K.S.A. 32-807 and K.S.A. 32-1002; effective Dec. 27, 1994; amended Sept. 22, 1995; amended Dec. 29, 1997; amended Oct. 1, 1999.)

Steven A. Williams
Secretary of Wildlife
and Parks

Doc. No. 024294

State of Kansas

Department of Administration

Permanent Administrative
RegulationsArticle 1.—PURPOSE, ADOPTION AND
AMENDMENT OF REGULATIONS;
PERSONNEL POLICIES

1-1-5. Pilot projects. (a) Plans for pilot projects within the state employee workforce may be developed by the director for the purpose of determining whether a specified change in human resource management policies or procedures or a new human resources program would result in improved statewide human resource management. The plan shall specifically delineate any provisions of one or more personnel regulations relating to state agencies and state employees that are to be suspended with respect to participants in the pilot project and shall include findings that each proposed suspension of a regulation meets all of the following criteria:

(1) Suspension of the regulation is necessary to implement a pilot project that is expected to accomplish one or more of the following purposes:

(A) To provide a means to recruit, select, develop, or maintain an effective and responsible workforce;

(B) to provide personnel administration practices that meet the social, economic, and program needs of the people of the state of Kansas;

(C) to facilitate the administration of personnel actions based on merit principles and fitness to perform the work required;

(D) to provide fair and equal opportunity for public service; or

(E) to provide improvements and economies in the organization and operation of state agencies.

(2) Suspension of the regulation will not be in conflict with the civil service act or any other statute of the state of Kansas.

(3) Suspension of the regulation will not be in conflict with any applicable federal statutes or regulations.

(4) Suspension of the regulation will not result in any personnel administration actions made on the basis of race, national origin or ancestry, religion, political affiliation, or other nonmerit factors.

(b) The plan for a pilot project shall be subject to review by the secretary of administration. The pilot project may be approved, modified and approved, or rejected by the secretary. Each plan that is either approved or modified and approved by the secretary shall be submitted to the governor.

(c) Implementation of the pilot project may be authorized by the governor in the form of an executive directive, which may place additional limitations or conditions on implementation of the pilot project as the governor deems advisable. The executive directive shall stipulate any provisions of one or more personnel regulations relating to state agencies and state employees that are suspended for participants in the pilot project. Such a suspension of provisions of one or more regulations shall be effective only for pilot project participants and only for the duration of

the pilot project. (Authorized by K.S.A. 75-3706 and 75-3747; implementing K.S.A. 75-2925, 75-3707, and 75-3746; effective Oct. 1, 1999.)

Article 2.—DEFINITIONS

1-2-30. Designated position. "Designated position" means any position in the classified service that is subject to the drug screening program established under K.S.A. 75-4362 or K.S.A. 75-4363, and amendments thereto. A designated position shall be limited to the following types of positions: (a) A "safety-sensitive" position, which means any of the following positions:

(1) A state law enforcement officer authorized to carry a firearm;

(2) a state correctional officer; or

(3) any state employee at a juvenile correctional facility; and

(b) any position in classes designated by the director that are used exclusively at the department of social and rehabilitation services' mental health and retardation facilities listed in K.S.A. 76-12a01(b), and amendments thereto. (Authorized by and implementing K.S.A. 1998 Supp. 75-4362 and K.S.A. 75-4363; effective April 13, 1992; amended July 26, 1993; amended Oct. 1, 1999.)

1-2-74. Administrative leave. "Administrative leave" means leave with pay authorized by the appointing authority for an emergency or other situation that creates dangerous or unsafe work conditions or for other circumstances that necessitate the closing of an office or building. The appointing authority shall notify the director of personnel services of any situation for which administrative leave is authorized. This notice shall be in writing and shall specify the facilities affected, and the dates and the starting and ending times of the authorized administrative leave. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective Oct. 1, 1999.)

1-2-84. Supervisor. "Supervisor" means an employee in a position that meets all of the following criteria: (a) Performs a majority of work that is different from that of the employee's subordinates; and

(b) has the responsibility to authorize or recommend in the interest of the employer a majority of the following actions:

(1) To hire, transfer, suspend, promote, demote, dismiss, and discipline employees under that individual's supervision and to address employee grievances; and

(2) to assign, direct, and conduct performance reviews of the work.

The exercise of this authority and responsibility shall not be of a merely routine or clerical nature but shall require the use of independent judgment. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1985; amended Dec. 17, 1995; amended Oct. 1, 1999.)

1-2-84a. Lead worker. "Lead worker" means an employee in a position that is assigned the ongoing responsibilities of planning and coordinating the work of co-workers and guiding and training them while performing the same kind and level of work a majority of

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the time. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective Oct. 1, 1999.)

1-2-84b. Manager. "Manager" means an employee who performs the following functions:

(a) Integrates and coordinates the activities of several organizational functions or programs;

(b) measures and evaluates the effectiveness of those functions or programs; and

(c) initiates changes through subordinate supervisors or through the management of projects or programs to achieve the predetermined goals and objectives. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective Oct. 1, 1999.)

Article 4.—CLASSIFICATION

1-4-8. Effect of position reallocation on incumbent.

(a) (1) If a position that is reallocated is filled on the date of reallocation by an employee with permanent or probationary status, and if the incumbent wishes to remain in the position, the appointing authority shall, within the current pay period, appoint the incumbent to the class to which the position was reallocated.

(2) If the class specification for the reallocated position requires that the person appointed to any position in that class possess a special license or certificate and the incumbent does not possess such a license or certificate, the incumbent shall not be appointed to the class to which the position was reallocated. If the reallocation of any position to a class requires that the employee possess a special license or certificate, and if the incumbent does not possess that license or certificate, the reallocation may be made only after the reallocation has been approved in writing by the director.

(b) Except as provided in paragraph (a)(2), if the incumbent had permanent status in the class to which the position was formerly allocated, the appointing authority shall appoint the incumbent to the class to which the position was reallocated with permanent status or probationary status. If the incumbent is appointed with probationary status, notice of a probationary period shall be given to the employee in writing, and the length of that probationary period shall be the same as that provided for promotional appointments in K.A.R. 1-7-4(b).

(c) If the reallocation of the position of the permanent employee is to a lower class, the appointing authority shall give the employee a written statement of the reason the position is being reallocated to a lower class.

(d) A reallocation shall not be retroactive unless authorized by the director. Each determination to authorize retroactivity shall be made by the director on a case-by-case basis and shall be based on the circumstances surrounding the request for a retroactive reallocation. The length of time for which the reallocation will be retroactive shall be determined by the director. The authorization from the director shall be in writing.

(e) If the incumbent had probationary status in the former class, time served on probation in the former class shall apply towards the probationary period in the new class. However, if the employee had probationary status as a result of a promotional appointment to the former class, the appointing authority may start the employee on

a new probationary period. The new probationary period shall begin on the date of the appointment to the new class, and the length of the probationary period shall be the same as that provided for promotional appointments in K.A.R. 1-7-4(b).

(f) If the incumbent does not wish to remain in the position upon its reallocation or if the incumbent does not qualify for the position under paragraph (a)(2), the employee shall be separated from the position by resignation, layoff, transfer, or other action as appropriate. If the incumbent does not submit a written notice to the appointing authority within 14 calendar days of the effective date of the appointment, requesting to terminate from the position, the employee shall be presumed to desire to remain in the position as reallocated.

(g) Different qualifications may be established by the director for those positions in a class that are subject to federal laws and regulations. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-2938 and 75-2946; effective May 1, 1979; amended May 1, 1981; amended May 1, 1983; amended May 1, 1984; amended Oct. 1, 1999.)

Article 5.—COMPENSATION

1-5-22. Payment for two or more positions. (a) Each employee who is employed in two or more regular part-time positions shall receive separate pay for the duties performed in each position. Except as provided in subsection (c), the percentage of time worked on all positions shall not exceed 100 percent.

(b) Each employee in multiple part-time positions shall receive benefits commensurate with the total time worked on all part-time positions.

(c) Any classified employee may hold one or more additional unclassified positions teaching or conducting research in a state educational institution without limit on total pay, if the appointing authority in the classified service certifies that the position does not detract from the time for which the employee is being paid as a classified employee. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended May 1, 1983; amended Dec. 17, 1995; amended May 31, 1996; amended Oct. 1, 1999.)

Article 6.—RECRUITING AND STAFFING

1-6-25. Temporary positions. (a) Except as otherwise provided by law, any appointing authority may fill a temporary position with any person who meets the required selection criteria for the class and the position. Employment of a person in one or more temporary positions shall not exceed 999 total hours of employment in state service for a period of 12 consecutive months. If the duration of a temporary position is to be less than 999 hours, the maximum duration of the temporary position shall be indicated by the appointing authority. All time worked, including overtime, shall count towards the 999 hours. Each temporary appointment shall be ended no later than 12 months after its commencement, even if the appointee works fewer than 999 hours. Any person may occupy more than one temporary position in a period of 12 consecutive months, if the total number of hours of employment in state service does not exceed 999 hours.

(b) Time worked in one or more temporary positions shall not be counted as part of the probationary period if an individual is subsequently hired in a regular position. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-2945; effective May 1, 1979; amended May 1, 1981; amended, E-82-14, July 1, 1981; amended May 1, 1982; amended May 1, 1984; amended, T-86-17, June 17, 1985; amended May 1, 1986; amended Dec. 17, 1995; amended Oct. 1, 1999.)

1-6-32. Candidate drug screening test for designated positions. (a) A drug test shall be administered to each candidate for a designated position upon a conditional offer of employment for a designated position.

(b) A conditional offer of employment for purposes of this regulation means the offer is contingent upon participating in the drug screening program established under K.S.A. 75-4362 or K.S.A. 75-4363, and amendments thereto.

(c) If a candidate fails to participate in the required drug screening test or receives a confirmed positive result based upon a test sample obtained from the candidate, the following provisions shall apply:

(1) The conditional offer of employment shall be null and void.

(2) The candidate shall be disqualified from certification for designated positions in accordance with K.S.A. 75-2940, and amendments thereto, and K.A.R. 1-6-7 for a period of one year from the effective date of the disqualification action.

(d) Each candidate who has been given a conditional offer of employment shall be informed of the provisions of subsection (b) in writing and shall sign a statement agreeing to participate in the test before the test is administered. Failure to accept this condition shall make the conditional offer of employment null and void.

(e) Each candidate required to submit to a drug screen shall be advised of all of the following aspects of the drug screening program:

(1) The methods of drug screening that may be used;

(2) the substances that may be identified;

(3) the consequences of a refusal to submit to a drug screening test or of a confirmed positive result; and

(4) reasonable efforts to maintain the confidentiality of results and any medical information that may be provided.

(f) Procedures and testing personnel used in collecting, analyzing, and evaluating test samples shall meet the standards established by the director. Drug screening tests may screen for any substances listed in the Kansas controlled substances act. The substances to be identified by the tests and the threshold levels of those substances shall be determined by the director.

(g) Any candidate who has reason to believe that technical standards were not followed in deriving a confirmed positive result may appeal the result in writing to the director within 14 calendar days of receiving written notice of the result.

(h) A retest by the original or a different laboratory on the same or a new specimen may be authorized only by the director, if the director determines that the technical standards established for test methods or chain-of-cus-

tody procedures were violated in deriving a confirmed positive result or if there is other appropriate cause to warrant a retest.

(i) If a candidate intentionally tampers with a sample provided for drug screening, violates the chain-of-custody or identification procedures, or falsifies test results, the conditional offer of employment shall be withdrawn. These actions by a candidate shall be grounds for disqualification for all positions in state service in accordance with K.S.A. 75-2940, and amendments thereto.

(j) If the result of a drug screening test warrants disqualification action, a candidate shall be afforded due process in accordance with K.S.A. 75-2940, and amendments thereto and K.A.R. 1-6-7 before any final action is taken.

(k)(1) Individual test results and medical information shall be considered confidential and shall not be disclosed publicly in accordance with K.S.A. 75-4362, and amendments thereto. A candidate shall be granted access to the candidate's information upon written request to the director.

(2) Drug screening test results shall not be required to be kept confidential in civil service board hearings regarding disciplinary action based on or relating to the results or consequences of a drug screen test.

(3) Each agency shall be responsible for maintaining strict security and confidentiality of drug screening records in that agency. Access to these records shall be restricted to the agency personnel officer or a designee, persons in the supervisory chain of command, the agency legal counsel, the agency appointing authority or a designee, the secretary of administration or a designee, department of administration legal counsel, and the director or a designee. Further access to these records shall not be authorized without the express consent of the director. (Authorized by and implementing K.S.A. 1998 Supp. 75-4362 and K.S.A. 75-4363; effective, T-1-10-28-88, Oct. 28, 1988; effective Dec. 19, 1988; amended Feb. 19, 1990; amended April 13, 1992; amended Dec. 17, 1995; amended Oct. 1, 1999.)

Article 8.—TRAINING AND CAREER DEVELOPMENT

1-8-6. Supervisory training programs. (a) A program shall be developed and maintained by the director to provide supervisory training of an appropriate scope for each employee appointed to a lead worker, supervisor, or manager position and for each employee currently working in a lead worker, supervisor, or manager position in any agency. The program shall provide supervisory continuing education training of an appropriate scope for each employee who is currently a lead worker, supervisor, or manager.

(b) Any agency may develop its own supervisory training programs, which shall include periodic supervisory continuing education training and shall be consistent with guidelines developed by the director. Each agency that has its own supervisory training program shall submit a copy of the program to the director. Any agency that does not have a supervisory training program may request a copy of the director's program.

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(c) No employee shall be granted permanent status in a lead worker, supervisor, or manager position to which the employee is hired or promoted until the employee has successfully completed the prescribed supervisory training program. Each person hired or promoted into a lead worker, supervisor, or manager position shall complete the prescribed program within six months of the date of hire or promotion. This time period for training may be extended to 12 months from the date of appointment or promotion if the training cannot be completed within six months. If a person has received prior supervisory training consistent with guidelines established by the director, the appointing authority may exempt the employee from supervisory training, subject to approval of the exemption by the director.

(d) Each lead worker, supervisor, or manager who has completed the initial supervisory training, or who was exempted from the initial supervisory training, shall complete supervisory continuing education training every three years as long as the lead worker, supervisor, or manager remains in a lead worker, supervisor, or manager position. Each person remaining in a lead worker, supervisor, or manager position shall complete a prescribed continuing education program no later than six months after the three-year anniversary date of completing the initial supervisory training program or subsequent continuing education programs. This time period for continuing education training may be extended to 12 months from the three-year anniversary date of completing the training if it cannot be completed within six months. There shall be no exemptions for any person in a lead worker, supervisor, or manager position from the required continuing education training.

(e) The terms "lead worker," "supervisor," and "manager" shall be defined in accordance with K.A.R. 1-2-84, K.A.R. 1-2-84a, and K.A.R. 1-2-84b. (Authorized by K.S.A. 75-3747 and K.S.A. 75-37,115; implementing K.S.A. 75-3746 and K.S.A. 75-37,115; effective May 1, 1979; amended May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended, T-1-9-19-94, Sept. 19, 1994; amended Nov. 21, 1994; amended Dec. 17, 1995; amended Oct. 1, 1999.)

Article 9.—HOURS; LEAVES; EMPLOYEE-MANAGEMENT RELATIONS

1-9-2. Holidays. (a) The following days shall be legal holidays for the state service: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, and Christmas Day. When one of these legal holidays falls on a Saturday, the preceding Friday shall be the officially observed holiday for state employees. When one of these legal holidays falls on a Sunday, the following Monday shall be the officially observed holiday for state employees.

(b)(1) The governor may designate, in a particular year, additional days on which state offices are to be closed in observance of a holiday or a holiday season. For the purpose of this regulation, such a day is termed a legal holiday.

(2) Each full-time employee who works a nonstandard workweek shall receive the same number of holidays in

a calendar year as employees whose regular work schedule is Monday through Friday.

(3) The governor may designate a discretionary holiday for observance of a holiday or other special day without closing state services. Each eligible employee shall receive hours equal to the number of hours that employee is regularly scheduled to work for a discretionary holiday. All hours for a discretionary holiday shall be taken on the same day. The amendments to this subsection shall be effective on and after December 26, 1999.

(c) For each holiday, each full-time employee shall receive holiday credit equal to the number of hours regularly scheduled to work, subject to the provisions of paragraph (b)(2). Holiday credit means pay or credit for paid time off at a straight-time rate.

(d) Any appointing authority may require some or all employees to work on a legal holiday, an officially observed holiday, or both.

(1) Each full-time nonexempt employee who is required to work on a legal holiday or on an officially observed holiday shall receive holiday compensation in addition to the employee's regular pay for the pay period. Holiday compensation means either pay or compensatory time at a time-and-a-half rate for those hours worked on a holiday. The appointing authority shall determine whether the compensation for this holiday work will be in the form of pay or compensatory time.

(2) The appointing authority shall make the following determinations for each exempt employee required to work on a holiday:

(A) Under what conditions the employee will be required to work;

(B) whether or not the employee will receive holiday pay or compensatory time in addition to the employee's regular salary; and

(C) the rate at which any holiday pay or compensatory time will be paid.

(3) Exempt employees shall take holiday compensatory time only in either half- or full-day increments.

(e) Hours worked on a holiday by a nonexempt employee that result in overtime hours during that work week or work period shall be compensated pursuant to K.A.R. 1-5-24 for those holiday hours worked on the holiday and an additional half-time rate for the resulting overtime hours.

(f) If a legal holiday is preceded or followed by an officially observed holiday, each employee shall receive holiday credit for only one of the two days. Each full-time employee who is required to work on both the legal holiday and the officially observed holiday shall receive holiday compensation for only one of the two days. If the number of hours worked on the two days is not the same, the employee shall receive holiday compensation for the day on which the employee worked the greater number of hours.

(g) Each nonexempt employee who works less than full-time on a regular schedule shall receive, for each holiday that falls on a day included in the employee's regular work schedule, holiday credit equal to the time the employee is regularly scheduled to work on that day. If the employee works on the holiday, the employee shall re-

ceive, in addition, holiday compensation for the hours worked on the holiday.

(h) Each nonexempt employee who works less than full-time on an irregular schedule, as determined by the appointing authority, shall not receive holiday credit but shall be paid at the time-and-a-half rate for those hours worked on the holiday.

(i) An employee who is on leave without pay either on the last working day before a holiday or the first working day following a holiday shall not receive holiday credit, unless the appointing authority granted an authorized leave without pay for a portion of either or both of the working days and approved the holiday credit for the employee.

(j) Any employee who separates from the service and whose next day at work, following the employee's last day at work, would have been a holiday shall not receive pay for the holiday. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746; effective May 1, 1979; amended May 1, 1985; amended Dec. 17, 1995; amended June 20, 1997; amended Oct. 1, 1999.)

1-9-19a. Drug screening test for employees in designated positions, and all state employees at correctional facilities. (a) Any employee in a designated position or any state employee of a correctional facility may be required to submit to a drug screening test in accordance with K.S.A. 75-4362 and K.S.A. 75-4363, and amendments thereto, based upon reasonable suspicion of illegal drug use by that employee.

(1) "Reasonable suspicion" means a judgment, supported by specific articulable facts or plausible inferences, that is made regarding the employee's behavior or supported by evidence found or reported that indicates drug use by the employee. Reasonable suspicion may be based on, among other circumstances, one or more of the following:

(A) An on-the-job accident or occurrence in which there is evidence to indicate any of the following:

- (i) The accident or occurrence was in whole or in part the result of the employee's actions or inactions;
- (ii) the employee exhibited behavior or in other ways demonstrated that the employee may have been using drugs or may have been under the influence of drugs; or
- (iii) a combination of these factors;

(B) an on-the-job incident that could be attributable to drug use by the employee, including a medical emergency;

(C) direct observation of behavior exhibited by the employee that may render the employee unable to perform the employee's job, in whole or part or that may pose a threat to safety or health;

(D) information that has been verified by a person with the authority to determine reasonable suspicion and that indicates either of the following:

(i) The employee may be using drugs or is under the influence of drugs, and this is affecting on-the-job performance; or

(ii) the employee exhibits behavior that may render the employee unable to perform the employee's job or may pose a threat to safety or health;

(E) physical on-the-job evidence of drug use by the employee or possession of drug paraphernalia;

(F) documented deterioration in the employee's job performance that could be attributable to drug use by the employee; and

(G) any other circumstance providing an articulable basis for reasonable suspicion.

(2) Agencies may ask a current employee in a designated position or current state employees at a correctional facility to submit to a drug screening test under the circumstances of reasonable suspicion as a condition of employment. Refusal to comply with these requirements shall be considered the equivalent of receiving a confirmed positive result for referral or disciplinary purposes.

(b) Each employee required to submit to a drug screening test shall be notified of that requirement in writing. Each employee required to submit to a drug screening test shall be advised of all of the following aspects of the drug screening program:

(1) The methods of drug screening that may be used;

(2) the substances that may be identified;

(3) the consequences of a refusal to submit to a drug screening test or a confirmed positive result; and

(4) reasonable efforts to maintain the confidentiality of results and any medical information that may be provided.

(c) Procedures and testing personnel used in collecting, analyzing, and evaluating test samples shall meet the standards established by the director. Drug screening tests may screen for any substances listed in the Kansas controlled substances act. The substances to be identified by the tests and the threshold levels of those substances shall be determined by the director.

(d) Any employee who has reason to believe that technical standards were not followed in deriving the employee's confirmed positive result may appeal the result in writing to the director within 14 calendar days of receiving written notice of the result.

(e) A retest by the original or a different laboratory on the same or a new specimen may be authorized only by the director, if the director determines that the technical standards established for test methods or chain-of-custody procedures were violated in deriving a confirmed positive result or has other appropriate cause to warrant a retest.

(f) An employee who receives a confirmed positive drug screen result shall be subject to dismissal in accordance with K.S.A. 75-2949d, K.S.A. 75-4362, and amendments thereto, and K.A.R. 1-10-6 as follows.

(1) Except as provided in paragraph (f)(2), the employee shall not be subject to dismissal solely on the basis of the confirmed positive result if the employee has not previously had a confirmed positive result or the equivalent and the employee successfully completes an appropriate and approved drug assessment and recommended education or treatment program.

(2) The employee shall be subject to dismissal pursuant to K.A.R. 1-10-6 if the employee is a temporary employee, or is in trainee status or on probation, other than for a promotional appointment, at the time the employee was given written notice of the drug screen requirement.

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(3) The employee shall be subject to dismissal in accordance with K.S.A. 75-2949f, and amendments thereto, if the employee fails to successfully complete an appropriate and approved drug assessment and recommended education and treatment program.

(4) The employee shall be subject to dismissal, in accordance with K.S.A. 75-2949f, and amendments thereto, if the employee has previously had a confirmed positive result or the equivalent.

(5) This regulation shall not preclude the agency appointing authority from proposing disciplinary action in accordance with K.S.A. 75-2949d, and amendments thereto, for other circumstances that occur in addition to a confirmed positive result and that are normally grounds for discipline.

(g) Any current employee who intentionally tampers with a sample provided for drug screening, violates the chain-of-custody or identification procedures, or falsifies a test result shall be subject to dismissal pursuant to K.S.A. 75-2949f, and amendments thereto.

(h) If the result of a drug screening test warrants disciplinary action, an employee with permanent status shall be afforded due process in accordance with K.S.A. 75-2949, and amendments thereto, and K.A.R. 1-10-6 before any final action is taken.

(i)(1) Individual results and medical information shall be considered confidential and shall not be disclosed publicly in accordance with K.S.A. 75-4362, and amendments thereto. Each employee shall be granted access to the employee's information upon written request to the director.

(2) Drug screening test results shall not be required to be kept confidential in civil service board hearings regarding disciplinary action based on or relating to the results or consequences of a drug screen test.

(3) Each agency shall be responsible for maintaining strict security and confidentiality of drug screening records in that agency. Access to these records shall be restricted to the agency personnel officer or a designee, persons in the supervisory chain of command, the agency legal counsel, the agency appointing authority or a designee, the secretary of administration or a designee, department of administration legal counsel, and the director or a designee. Further access to these records shall not be authorized without the express consent of the director. (Authorized by and implementing K.S.A. 1998 Supp. 75-4362 and K.S.A. 75-4363; effective, T-1-10-28-88, Oct. 28, 1988; effective Dec. 19, 1988; amended Feb. 19, 1990; amended April 13, 1992; amended May 31, 1996; amended Oct. 1, 1999.)

1-9-25. Alcohol and controlled substances test for employees in commercial driver positions. (a) The provisions of 49 C.F.R. Part 382, as in effect on February 15, 1994, and 49 C.F.R. Part 40, as in effect on February 15, 1994 and amendments to Part 40, as published in 59 Fed. Reg. 42,996 (1994), are hereby adopted by reference.

(b) Any employee in a commercial driver position may be required to submit to an alcohol or controlled substances test in accordance with the federal omnibus transportation employees act of 1991, 49 U.S.C. Appx. § 2717, based upon reasonable suspicion of illegal controlled substance use or alcohol abuse by that employee

or for the purposes of random testing, post-accident testing, return-to-duty testing, or follow-up testing.

(c) For the purposes of this regulation, "safety-sensitive functions" means any duty required of an employee in a commercial driver position during the following periods:

(1) All time spent waiting to be dispatched at a state plant, terminal, facility, or other state property or on any public property, unless the driver has been relieved from duty by the agency;

(2) all time spent inspecting equipment as required by 49 C.F.R. 392.7 and 392.8, as in effect on February 15, 1994, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

(3) all driving time as defined in 49 C.F.R. 395.2, as in effect on February 15, 1994;

(4) all time, other than driving time, spent in or upon any commercial motor vehicle, except time spent resting in a sleeper berth;

(5) all time spent loading or unloading a vehicle, supervising or assisting in the unloading or loading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments loaded or unloaded;

(6) all time spent performing the driver requirements relating to accidents as set out in 49 C.F.R. 392.40 and 392.41, as in effect on February 15, 1994; and

(7) all time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

(d)(1) Each agency shall require each of its employees in commercial driver positions to submit to an alcohol or a controlled substances test when the agency has reasonable suspicion of illegal controlled substance use or alcohol abuse by that employee. Reasonable suspicion shall be based on a judgment supported by specific, contemporaneous, articulable observations regarding the employee's behavior, appearance, speech, or body odor. Testing under this paragraph may be conducted under these conditions:

(A) Only if the observations are made by a supervisor or other state official trained in accordance with 49 C.F.R. 382.603; and

(B) for alcohol testing, only if the observations are made during, just preceding, or just after the period of the work day in which the employee is performing a safety-sensitive function.

(2) Each employee in a commercial driver position shall be subject to random testing for alcohol and controlled substances. Random testing for alcohol and controlled substances shall be unannounced, and each employee in a commercial driver position shall have an equal chance of being selected for testing each time selections for testing are made. The number of employees selected for random testing each year shall be based on the percentage established by the federal highway administration under 49 C.F.R. 382.305. The process used to randomly select employees to be tested shall be a scientifically valid method. Random alcohol testing shall be conducted only during, just preceding, or just after the period of the work day in which the employee is performing a safety-sensitive function.

(3) (A) Each employee in a commercial driver position who is involved in an accident shall be tested for alcohol and controlled substances if either of these conditions is met:

(i) The employee was performing a safety-sensitive function with respect to the vehicle, and the accident involved the loss of human life.

(ii) The employee was issued a citation under state or local law for a moving traffic violation arising from the accident.

The post-accident testing shall be performed as soon as practicable following the accident.

(B) For purposes of this regulation, an "accident" means an incident involving a commercial motor vehicle in which there is a fatality, an injury treated away from the scene, or a vehicle required to be towed from the scene.

(C) The driver shall remain available for testing and refrain from consuming alcohol for eight hours or until the driver undergoes a post-accident alcohol test. If the driver is not available, the agency may consider the driver to have refused to be tested. If the alcohol test is not administered within two hours following the accident, the employer shall maintain on file a record stating the reasons the test was not promptly administered. If the alcohol test is not administered within eight hours, the agency shall cease attempts to administer the test and shall prepare and maintain the same record. If the controlled substances test is not administered within 32 hours, the agency shall cease attempts to administer the test and shall prepare and maintain on file a record stating the reasons the test was not promptly administered.

(4) Each employee who is in a commercial driver position and who has violated one or more of the provisions of 49 C.F.R. Part 382, Subpart B, shall not return to duty requiring the performance of a safety-sensitive function until the employee undergoes a return-to-duty alcohol test with results indicating an alcohol breath content of less than 0.02 grams of alcohol per 210 liters of breath, a controlled substances test with a verified negative result, or both, as appropriate.

(5) Each employee in a commercial driver position who violates one or more of the provisions of 49 C.F.R. Part 382, Subpart B, and who is identified by a substance abuse professional as needing assistance in resolving problems associated with alcohol or controlled substances, shall be subject to unannounced follow-up controlled substances testing, alcohol testing, or both, following the employee's return to duty. This follow-up testing shall consist of at least six tests in the first 12 months following the driver's return to duty. Alcohol testing shall be performed only before, immediately after, or while performing a safety-sensitive function.

(e) State agencies may ask a current employee in a commercial driver position to submit to alcohol and controlled substances tests under the provisions of paragraphs (d)(1) through (5) as a condition of employment. Refusal to comply with these requirements shall be considered the equivalent of receiving a confirmed positive result for referral or disciplinary actions.

(f) (1) Each employee required to submit to alcohol or controlled substances tests shall be notified of that re-

quirement in writing. Each employer shall provide to each current employee in a commercial driver position detailed materials containing information identified below in paragraph (f)(2). These materials shall be provided to each current employee before the start of alcohol and controlled substances testing by the agency and to each employee subsequently hired or transferred into a commercial driver position.

(2) The information provided to each employee in a commercial driver position shall include the following:

(A) The identity of the person designated by the agency to answer drivers' questions about the materials;

(B) the categories of drivers who are subject to the provisions of this regulation;

(C) sufficient information about the safety-sensitive functions performed by those drivers to make clear which periods of the work day the driver is required to be in compliance with this regulation;

(D) specific information concerning driver conduct that is prohibited by this regulation and Subpart B of 49 C.F.R. Part 382;

(E) the circumstances under which a driver will be tested for alcohol or controlled substances under this regulation;

(F) the procedures that will be used to test for the presence of alcohol and controlled substances, protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver;

(G) the requirement that each driver submit to alcohol and controlled substances tests administered in accordance with this regulation;

(H) an explanation of what constitutes a refusal to submit to an alcohol or controlled substances test and the attendant consequences;

(I) the consequences for drivers found to have violated 49 C.F.R. 382, Subpart B, including the requirement that the driver be removed immediately from safety-sensitive functions, and the referral, evaluation, and treatment procedures under 49 C.F.R. 382.605;

(J) the consequences for drivers found to have an alcohol concentration of 0.02 grams per 210 liters of breath or greater but less than 0.04 grams;

(K) information regarding post-accident procedures and instructions necessary for the employee to be able to comply with the post-accident testing requirements; and

(L) information concerning the following:

(i) The effects of the use of alcohol and controlled substances on an individual's health, work, and personal life;

(ii) signs or symptoms of an alcohol or a controlled substances problem, whether the driver's own problem or that of a coworker; and

(iii) available methods of intervening when an alcohol or a controlled substances problem is suspected, including confrontation, referral to the state employee assistance program, referral to management, or a combination of these steps.

(g) Procedures and testing personnel used in collecting, analyzing, and evaluating test samples shall meet the standards established by the director in accordance with 49 C.F.R. Part 40.

(continued)

(h) In accordance with 49 C.F.R. 40.25(f)(10)(ii)(E), any employee who receives a confirmed positive result on a controlled substances test may request a retest by the original or a different laboratory on the second half of the original specimen, within 72 hours of being notified of the positive test result.

(i) (1) An alcohol test shall be considered positive when the alcohol concentration is 0.04 grams of alcohol per 210 liters of breath or greater. However, if the breath alcohol content is 0.02 grams of alcohol per 210 liters of breath or greater and less than 0.04 grams of alcohol, the employee shall not be allowed to perform safety-sensitive functions until a 24-hour period has elapsed, in accordance with 49 C.F.R. 382.505. The agency shall not take action against the employee based solely on a test required by 49 C.F.R. Part 382 with a test result of less than 0.04 grams of alcohol.

(2) A permanent employee who receives a confirmed positive controlled substances test result or an alcohol test result with a concentration of 0.04 or greater or who violates any provision of 49 C.F.R. Part 382, Subpart B shall be removed from safety-sensitive functions until the employee has met these requirements:

(A) Been evaluated by a substance abuse professional;

(B) completed treatment, if required by the substance abuse professional; and

(C) taken a return-to-duty alcohol test, controlled substances test, or both, as determined by the substance abuse professional, with results below 0.02 grams of alcohol per 210 liters of breath and a negative result for controlled substances.

(3) An employee shall not be subject to dismissal solely on the basis of a confirmed positive test result or a violation of any other provision of 49 C.F.R. 382, Subpart B if the employee has not previously had a confirmed positive result or the equivalent or other violation and the employee successfully completes an appropriate and approved alcohol and controlled substance assessment and any recommended education or treatment program, as provided in paragraph (i)(2). However, the employee shall be subject to dismissal in accordance with K.S.A. 75-2949f, and amendments thereto, if the employee has previously had a confirmed positive result or the equivalent or other violation or if the employee fails to successfully complete an appropriate and approved alcohol and controlled substance assessment and recommended education and treatment program as prescribed by the substance abuse professional. This regulation shall not preclude the agency appointing authority from proposing disciplinary action in accordance with K.S.A. 75-2949d, and amendments thereto, and K.A.R. 1-10-6 for other circumstances that occur in addition to a confirmed positive result and that are normally grounds for discipline.

(4) If an employee is a temporary employee, or is in trainee status or on probation, other than for a promotional appointment, at the time the employee is given written notice of an appointment for an alcohol or controlled substances test and if the employee violates any provisions of 49 C.F.R. Part 382, Subpart B or has a con-

firmed positive result, the employee shall be subject to dismissal pursuant to K.A.R. 1-10-6.

(j) Any employee who intentionally tampers with a sample provided for alcohol or controlled substances testing, violates chain-of-custody or identification procedures, or falsifies a test result shall be subject to dismissal pursuant to K.S.A. 75-2949f, and amendments thereto.

(k) If disciplinary action is warranted under the provisions of this regulation, the employee shall be afforded due process in accordance with K.S.A. 75-2949, and amendments thereto, and K.A.R. 1-10-6.

(l) (1) Individual results and medical information shall be considered confidential and shall not be disclosed publicly. Each employee shall be granted access to the employee's information upon written request to the director, in accordance with 49 C.F.R. 382.405.

(2) (A) Each agency shall be responsible for maintaining strict security and confidentiality of the alcohol and controlled substances records in that agency. Access to these records shall be restricted to the following personnel:

(i) The agency personnel officer, the agency appointing authority, the secretary of administration, the director, or any of their respective designees;

(ii) persons in the supervisory chain of command;

(iii) the agency legal counsel; or

(iv) the department of administration legal counsel.

(B) Further access to these records shall not be authorized without the express consent of the director. (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3746 and 75-3707; effective, T-1-1-26-95, Jan. 26, 1995; effective May 30, 1995; amended Sept. 18, 1998; amended Oct. 1, 1999.)

Article 10.—GUIDANCE AND DISCIPLINE

1-10-10. Corrective action for violation of the civil service act. (a) If the director or the director's designee conducts an investigation pursuant to subsection (e) of K.S.A. 75-3746, and amendments thereto, and, as a result, finds that any employee in the classified service has violated any provision of the Kansas civil service act or any regulations implementing the civil service act, corrective action against the employee may be recommended to the appointing authority of the employee's agency by the director, if the director finds this action to be appropriate and necessary.

(b) Written notice of the findings on which the director's decision to recommend corrective action is based, as well as the recommended type and severity of the proposed corrective action, shall be provided to the appointing authority by the director. The appointing authority may then proceed with disciplinary action pursuant to existing statutory authority.

(c) Appropriate law enforcement authorities may be provided by the director with written notice of the results of investigations revealing violations of the civil service act or of any regulations implementing the civil service act, to determine if criminal prosecution should be taken pursuant to K.S.A. 75-2957, and amendments thereto. (Authorized by K.S.A. 75-3706 and 75-3747; implement-

ing K.S.A. 75-2925, 75-2949, 75-2952, 75-2957, 75-3707, and 75-3746; effective Oct. 1, 1999.)

1-10-11. Corrective action for violations regarding state employee benefits. (a) If the director or director's designee conducts an investigation pursuant to subsection (e) of K.S.A. 75-3746, and amendments thereto, and, as a result, the director finds that any employee in the classified service or unclassified service has violated any provision of any state employee benefits program, including benefits offered under the cafeteria benefits plan, retirement benefits or state workers compensation benefits, or any regulations implementing those programs, corrective action may be recommended to the appointing authority of the employee's agency by the director, if the director finds this action to be appropriate and necessary.

(b) Written notice of the findings on which the director's decision to recommend corrective action is based, as well as the recommended type and severity of the proposed corrective action, shall be provided to the appointing authority by the director. The appointing authority may then proceed with disciplinary action pursuant to existing statutory authority.

(c) Appropriate law enforcement authorities may be provided by the director with written notice of the results of investigations revealing violations of the civil service act or of any regulations implementing the civil service act, to determine if criminal prosecution should be taken pursuant to K.S.A. 75-2957, and amendments thereto. (Authorized by K.S.A. 75-3706 and 75-3747; implementing K.S.A. 75-2925, 75-2949, 75-2952, 75-2957, 75-3707, and 75-3746; effective Oct. 1, 1999.)

Daniel R. Stanley
Secretary of Administration

Doc. No. 024293

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 29.—SOLID WASTE MANAGEMENT

28-29-3. Definitions. (a) "Agricultural waste" means solid waste resulting from the production of farm or agricultural products.

(b) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is, or tends significantly to be injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.

(c) "Backyard composting" means a composting operation that does not distribute the finished compost for use off-site and that meets one of the following conditions:

(1) The materials are all compostable and are generated by no more than four single residences, or the equivalent of four single residences.

(2) The material being composted consists entirely of yard waste, and the volume of material being composted is less than 10 cubic yards.

(d) "Bulky waste" means items of refuse too large to be placed in refuse storage containers, including appliances, furniture, tires, large auto parts, motor vehicles, trees, branches, or stumps.

(e) "By-product" means a material produced without separate commercial intent during the manufacture or processing of other materials or mixtures.

(f) "Commercial waste" means all solid waste emanating from establishments engaged in business, including solid waste originating in stores, markets, office buildings, restaurants, shopping centers, and theaters.

(g) "Composting" means a controlled process of microbial degradation of organic material into a stable, nuisance-free, humus-like product.

(h) "Composting area" means the area used for receiving, processing, curing, and storing compostable materials and compost.

(i) "Discarded material" means one of the following:

(1) Material that has been abandoned or disposed; or

(2) a by-product or residual, when it is either in treatment or in storage or when it is used in a manner that constitutes disposal.

(j) "Disease vector" means rodents, flies, mosquitos, or other pests capable of transmitting disease to humans.

(k) "Garbage" means the animal and vegetable waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking, or serving of meat, produce, or other foods and shall include unclean containers.

(l) "Groundwater" means that part of subsurface water in the ground that is in the zone of saturation.

(m) "Incineration" means the controlled process of burning solid, liquid, and gaseous combustible wastes for volume and weight reduction in facilities designed for that use.

(n) "Incinerator" means any device or structure used for the destruction or volume reduction of garbage, rubbish, or other liquid or solid waste materials by combustion pursuant to disposal or salvaging operations.

(o) "Leachate" means liquid that has been or is in direct contact with solid waste.

(p) "Long-term care" means the maintenance of all appurtenances and systems installed or used in the containment of solid wastes and the maintenance of the effective performance of leachate or gas collection, treatment, and disposal systems installed for use during the postclosure care period at a solid waste disposal area or a solid waste processing facility.

(q) "Mixed refuse" means a mixture of solid wastes containing both putrescible and nonputrescible materials.

(r) "Monofill" means a landfill in which 90% or more of the waste disposed is restricted to one specified waste.

(1) All other waste disposed of in a monofill shall meet both of the following requirements:

(A) The waste shall be associated with the process that produced the specified waste.

(B) The waste shall have characteristics similar to those of the specified waste and shall have similar and limited potential hazards to human health and the environment.

(2) Clean rubble, as defined in K.S.A. 65-3402 and amendments thereto, may be disposed of in any monofill

(continued)

and shall not be considered in calculating the percentage of specified waste in the monofill.

(s) "Nuisance" means either of the following situations, if caused by or a result of the management of solid wastes in violation of K.S.A. 65-3401 et seq., and amendments thereto, or K.A.R. 28-29-2 et seq.:

(1) A situation that is injurious to health or offensive to the senses or that obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property; or

(2) a situation that adversely affects the entire community or neighborhood, or any substantial number of persons, even though the extent of the annoyance or damage inflicted on individuals is unequal.

(t) "Official plan" means a comprehensive plan submitted to and approved by the secretary as provided in K.S.A. 65-3405, and amendments thereto.

(u) "On site" means on the premises where solid waste generation occurs, including two or more pieces of property that are divided only by public or private rights-of-way and that are otherwise contiguous.

(v) "Open burning" means the burning of any materials without all of the following characteristics:

(1) Control of combustion air to maintain adequate temperature for efficient combustion;

(2) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(3) control of emission of the gaseous combustion products.

(w) "Permit" means a written permit issued by the secretary that by its conditions may authorize the permittee to construct, install, modify, or operate a specified solid waste disposal area or solid waste processing facility.

(x) "Processing of wastes" means the extraction of materials, transfer, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal.

(y) "Putrescible wastes" means solid waste that contains organic matter capable of being decomposed by microorganisms and that is capable of attracting or providing food for birds and disease vectors.

(z) "Resource recovery" means the recovery of material or energy from solid waste.

(aa) "Salvaging" means the controlled removal of reusable materials from solid waste.

(bb) "Sanitary landfill" means a method of disposing of solid wastes on land without creating nuisances or hazards to the public health or safety or the environment at a permitted solid waste disposal area that meets the standards prescribed in K.A.R. 28-29-23.

(cc) "Source-separated organic waste" means organic material that has been separated from noncompostable material at the point of generation and shall include the following wastes:

- (1) Vegetative food waste;
- (2) solid or unrecyclable paper;
- (3) sewage sludge;
- (4) other wastes with similar properties, as determined by the department; and
- (5) yard waste in combination with these materials.

(dd) "Storage" means the containment of solid wastes in a manner that shall not constitute disposal or processing, under one of the following conditions:

(1) Precollection. Storage by the generator, on or adjacent to the premises, before initial collection. Under these regulations, precollection storage shall not require a processing facility permit.

(2) Postcollection. Storage by the processor or a collector, while the waste is awaiting processing or transfer to a disposal or recovery facility. Under these regulations, postcollection storage shall require a processing facility permit.

(ee) "Vegetative food waste" means food waste and food processing waste from materials including fruits, vegetables, and grains. Vegetative food waste shall not refer to animal products or by-products, including dairy products, animal fat, bones, or meat.

(ff) "Water pollution" means contamination or alteration of the physical, chemical, or biological properties of any waters of the state that creates a nuisance or that renders these waters harmful to public health, safety, or welfare harmful to the plant, animal, or aquatic life of the state; or unsuitable for beneficial uses.

(gg) "Yard waste" means vegetative waste generated from ordinary yard maintenance, including grass clippings, leaves, branches less than 0.5 inches in diameter, wood chips and ground wood less than 0.5 inches in diameter, and garden wastes. (Authorized by and implementing K.S.A. 1998 Supp. 65-3406; effective Jan. 1, 1972; amended, E-79-22, Sept. 1, 1978; amended May 1, 1979; amended, E-82-8, April 10, 1981; amended May 1, 1982; amended Oct. 1, 1999.)

28-29-25a. Small yard waste composting sites.

This regulation shall apply to each yard waste composting site that has a composting area of one-half acre or less, but this regulation shall not apply to backyard composting. Hay, straw, and manure may be added to yard waste only for the purpose of adjusting the carbon-to-nitrogen ratio of the compost mix. The additives shall not exceed 10 percent by volume of the total mixture without the written approval of the department. Other materials may be added to the yard waste only with the written approval of the department.

(a) Site design. The owner or operator of each yard waste composting site shall design and construct the composting site to meet all of the following requirements.

(1) Composting surface and drainage.

(A) Storm water run-on shall be prevented from entering the receiving, processing, curing, or storage areas by the use of berms or other physical barriers.

(B) The operation shall not cause a discharge of pollutants into waters of the state, in accordance with K.S.A. 65-164, and amendments thereto.

(2) Site access.

(A) At each site that composts yard waste that is brought in from off-site, the following information shall be posted on one or more signs:

(i) Site name;

(ii) site hours;

(iii) a list of the materials appropriate for composting; and

(iv) the name and telephone number of an emergency contact person.

(B) Unauthorized dumping shall be discouraged by access control.

(b) Site operations. The owner or operator of each yard waste composting site shall perform the following:

(1) Minimize odors;

(2) control disease vectors, dust, litter, and noise; and

(3) remove all finished compost within 18 months of the completion of the composting process.

(c) Site closure. The owner or operator of each yard waste composting site shall perform the following:

(1) Notify the department, in writing, at least 60 days before closure; and

(2) remove all materials from the site within six months of the last receipt of compostable material.

(d) Registration. Each owner or operator of a small yard waste composting site shall submit registration information to the department on a form provided by the department, unless the composting operation is located at a confined feeding facility that has a valid permit issued by the department. (Authorized by and implementing K.S.A. 1998 Supp. 65-3406; effective Oct. 1, 1999.)

28-29-25b. Yard waste composting facilities. This regulation shall apply to each facility that composts yard waste and has a composting area larger than one-half acre. Hay, straw, and manure may be added to yard waste only for the purpose of adjusting the carbon-to-nitrogen ratio of the compost mix. The additives shall not exceed 10 percent by volume of the total mixture without the written approval of the department. Other materials may be added to the yard waste only with the written approval of the department.

(a) Facility design. The owner or operator of each yard waste composting facility shall design and construct the facility to meet the following requirements.

(1) Composting surface and drainage.

(A) Storm water run-on shall be prevented from entering the receiving, processing, curing, or storage areas by the use of berms or other physical barriers.

(B) The facility shall not cause a discharge of pollutants into waters of the state, in accordance with K.S.A. 65-164, and amendments thereto.

(C) The composting area shall be graded to prevent ponding of liquids.

(D) The surface of the composting area shall be capable of supporting all equipment used.

(2) Facility access.

(A) At each facility that composts yard waste that is brought in from off-site, the following information shall be posted on one or more signs:

(i) Facility name;

(ii) permit number;

(iii) site hours;

(iv) traffic flow;

(v) a list of the materials appropriate for composting; and

(vi) the name and telephone number of an emergency contact person.

(B) Unauthorized dumping shall be discouraged by access control.

(C) Facility roads shall be constructed to allow access for managing the composting operation. Yard waste composting facilities shall be exempt from the all-weather access road requirement prescribed in K.A.R. 28-29-23(e).

(3) Capacity and storage. The composting facility shall have the capacity to store the following materials:

(A) Incoming materials waiting to be processed;

(B) the materials being processed; and

(C) the finished compost, not to exceed 18 months' production.

(b) Facility operations. The owner or operator of each yard waste composting facility shall be exempt from K.A.R. 28-29-23(j) and shall perform the following:

(1) Minimize odors;

(2) control disease vectors, dust, litter, and noise;

(3) segregate incoming waste from finished compost;

(4) inform the public of disposal sites for waste not acceptable for composting at the facility;

(5) begin processing incoming waste within one week of receipt; and

(6) remove all finished compost within 18 months of the completion of the composting process.

(c) Facility closure. The owner or operator of each yard waste composting facility shall perform the following:

(1) Notify the department, in writing, at least 60 days before closure; and

(2) remove all materials from the facility within six months of the last receipt of compostable material.

(d) Permit applications. The owner or operator of each yard waste composting facility shall submit a permit application to the department on a form provided by the department, unless the composting operation is located at a confined feeding facility that has a valid permit issued by the department. The applicant shall include the following items with the permit application.

(1) Facility design plan. This design plan shall not be required to bear the seal and signature of a professional engineer. The facility design plan shall contain all of the following items:

(A) A 7.5 minute topographic map of the area, as typically available from the U.S. geological survey, indicating the facility boundary and the property boundary;

(B) a soil map of the area, as typically available from the U.S. department of agriculture natural resources conservation services;

(C) a 100-year floodplain map of the area, as typically available from the federal emergency management agency; and

(D) a detailed drawing of the facility that indicates the location of all of the following features;

(i) Roads;

(ii) the existing and final grades and contours;

(iii) storm water control;

(iv) buildings and equipment to be installed;

(v) utilities; and

(vi) access control.

(2) Operations plan. The operations plan shall contain the following information:

(A) Job descriptions of persons responsible for operation, control, and maintenance of the facility;

(continued)

(B) the anticipated annual quantity of waste to be received, and the seasonal variations of the quantity of waste to be received;

(C) the methods to control traffic and to expedite unloading;

(D) the methods for measuring incoming waste;

(E) the methods to control the types of waste received;

(F) the methods for removing noncompostable wastes from the incoming waste stream, including procedures for storage and disposal of these wastes;

(G) the location of disposal sites for noncompostable wastes;

(H) the method of composting;

(I) a list of equipment to be used;

(J) a description of any additives used in the process;

(K) a quality assurance and quality control plan that outlines the monitoring, sampling, and analysis plans for testing the compost process and product;

(L) the proposed end-use of the compost;

(M) the methods to minimize, manage, and monitor odors;

(N) disease vector, dust, litter, and noise control measures;

(O) leachate and storm water control measures; and

(P) a fire protection and control plan.

(3) Closure plan. The closure plan shall not be required to bear the seal and signature of a professional engineer. This plan shall include the following information:

(A) The steps necessary to close the facility;

(B) the final surface contours; and

(C) a closure cost estimate based on the third-party cost for removing and disposing of the maximum amount of wastes that may be contained at the facility. (Authorized by and implementing K.S.A. 1998 Supp. 65-3406; effective Oct. 1, 1999.)

28-29-25c. Manure composting. For the purposes of this regulation, subsections (a), (b), (c), and (d) shall apply to each facility that composts manure and has a composting area of one-half acre or less. Subsections (a), (b), (c), and (e) of this regulation shall apply to each facility that composts manure and has a composting area larger than one-half acre. On-site storage of manure shall not be considered composting.

(a) Facility design. The owner or operator of each facility that composts manure shall design and construct the facility to meet the following requirements.

(1) Composting surface and drainage.

(A) Storm water run-on shall be prevented from entering the receiving, processing, curing, or storage areas by the use of berms or other physical barriers.

(B) The facility shall not cause a discharge of pollutants into waters of the state, in accordance with K.S.A. 65-164, and amendments thereto.

(C) Leachate control shall be provided wherever leachate is generated.

(D) The composting area shall be graded to prevent ponding of liquids.

(E) The surface of the composting area shall be capable of supporting all equipment used.

(2) Facility access.

(A) At each facility that composts manure that is brought in from off-site, the following information shall be posted on one or more signs:

(i) Facility name;

(ii) permit number;

(iii) site hours;

(iv) traffic flow;

(v) a list of the materials appropriate for composting; and

(vi) the name and telephone number of an emergency contact person.

(B) Unauthorized dumping shall be discouraged by access control.

(C) Facility roads shall be constructed to allow access for managing the composting operation. Manure composting facilities shall be exempt from the all-weather access road requirement prescribed in K.A.R. 28-29-23(e).

(3) Capacity and storage. The facility shall have the capacity to store the following materials:

(A) Incoming materials waiting to be processed;

(B) the materials being processed; and

(C) the finished compost, not to exceed 18 months' production.

(4) Separation distances. For the purposes of this regulation, "animal unit," "habitable structure," and "wild-life refuge" have the same meaning as set forth in K.S.A. 65-171d, and amendments thereto.

(A) Each facility that composts livestock manure, other than swine manure, shall meet or exceed the following separation distances from any habitable structure in existence when the facility begins operations:

(i) 1,320 feet for facilities composting manure from 300 to 999 animal units; and

(ii) 4,000 feet for facilities composting manure from 1,000 or more animal units.

(B) Each facility that composts swine manure shall meet or exceed the following separation distances from any habitable structure or city, county, state, or federal park in existence when the facility begins operations:

(i) 1,320 feet for facilities composting manure from 300 to 999 animal units;

(ii) 4,000 feet for facilities composting manure from 1,000 to 3,724 animal units; and

(iii) 5,000 feet for facilities composting manure from 3,725 or more animal units.

(C) Each facility that composts swine manure shall meet or exceed the following separation distances from any wildlife refuge:

(i) 10,000 feet for facilities composting manure from 1,000 to 3,724 animal units; and

(ii) 16,000 feet for facilities composting manure from 3,725 or more animal units.

(D) For each manure composting operation located at a confined feeding facility, the separation distances as set forth in K.S.A. 65-171d and amendments thereto shall apply.

(5) Exceptions to the separation distances.

(A) The separation distance requirements of paragraphs (a)(4)(A) and (B) of this regulation shall not apply if the owner or operator obtains written agreement from all owners of habitable structures that are within the separation distance, stating that the owners of the habitable

structures are aware of the operation and have no objections to the operation. The written agreement shall be filed in the office of the register of deeds of the county in which the habitable structure is located.

(B) The separation distance requirements of paragraph (a)(4)(A) of this regulation may be reduced by the secretary if one of the following conditions applies:

(i) No substantial objection from owners of habitable structures within the separation distance is received in response to public notice.

(ii) The board of county commissioners of the county where the composting operation is located submits a written request seeking a reduction of the separation distances.

(C) The separation distance requirements of paragraphs (4)(B)(i) and (ii) of this regulation may be reduced by the secretary if one of the following conditions applies:

(i) No substantial objection is received in response to notice given by certified mail, return response requested, to owners of all habitable structures within the separation distance.

(ii) The board of county commissioners of the county where the composting operation is located submits a written request seeking a reduction of separation distances.

(iii) The secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the composting operation will be using the technology.

(D) The separation distance requirement of paragraph (4)(B)(iii) of this regulation may be reduced by the secretary if one of the following conditions applies:

(i) No substantial objection is received in response to notice given by certified mail, return response requested, to owners of all habitable structures within the separation distance.

(ii) The secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the composting operation will be using the technology.

(E) For each manure composting operation located at a confined feeding facility, exceptions to the separation distances as set forth in K.S.A. 65-171d and amendments thereto shall apply.

(b) Facility operations. The owner or operator of each facility that composts manure shall perform the following:

- (1) Minimize odors;
- (2) control disease vectors, dust, litter, and noise;
- (3) segregate incoming waste from finished compost;
- (4) limit public access to hours when an attendant or any operating personnel are at the facility;
- (5) begin processing incoming waste by the end of the working day; and
- (6) remove all finished compost within 18 months of the completion of the composting process.

(c) Facility closure. The owner or operator of each facility that composts manure shall perform the following:

- (1) Notify the department, in writing, at least 60 days before closure; and
- (2) remove all materials from the facility within six months of the last receipt of compostable material.

(d) Registration. Each owner or operator of a facility that composts manure and has a composting area of one-half acre or less shall submit registration information to the department on a form provided by the department, unless the composting operation is located at a confined feeding facility that has a valid permit issued by the department.

(e) Permit applications. The owner or operator of each facility that composts manure and has a composting area larger than one-half acre shall submit a permit application to the department on a form provided by the department, unless the composting operation is located at a confined feeding facility that has a valid permit issued by the department. The applicant shall include the following items with the permit application:

(1) Facility design plan. The facility design plan shall contain all of the following items:

(A) A 7.5 minute topographic map of the area, as typically available from the U.S. geological survey indicating the facility boundary and the property boundary;

(B) a soil map of the area, as typically available from the U.S. department of agriculture natural resources conservation services;

(C) a 100-year floodplain map of the area, as typically available from the federal emergency management agency; and

(D) a detailed drawing of the facility that indicates the location of the following features:

- (i) Roads;
- (ii) the existing and final grades and contours;
- (iii) storm water control;
- (iv) buildings and equipment to be installed;
- (v) utilities;
- (vi) access control; and
- (vii) all other structures.

(2) Operations plan. The operations plan shall contain the following information:

(A) Job descriptions of persons responsible for operation, control, and maintenance of the facility;

(B) the anticipated annual quantity of waste to be received, and the seasonal variations of the quantity of waste to be received;

(C) the sources of waste to be received;

(D) the methods to control traffic and to expedite unloading;

(E) the methods for measuring incoming waste;

(F) the methods to control the types of waste received;

(G) the methods for removing noncompostable wastes from the incoming waste stream, including procedures for storage and disposal of these wastes;

(H) the location of disposal sites for noncompostable wastes;

(I) the method of composting;

(J) a list of equipment to be used;

(K) a description of additives used in the process;

(L) a quality assurance and quality control plan that outlines the monitoring, sampling, and analysis plans for testing the compost process and product;

(M) the proposed end use of product;

(N) the methods to minimize, manage, and monitor odors;

(continued)

(O) disease vector, dust, litter, and noise control measures;

(P) leachate and national pollutant discharge elimination system storm water control measures;

(Q) the plans for operations during wind, heavy rain, snow, freezing temperatures, or other inclement weather conditions;

(R) a contingency plan for events including equipment failure, power outages, natural disasters, receipt of prohibited materials, or other similar interruptions of normal activities; and

(S) a fire protection and control plan.

(3) Closure plan. The closure plan shall include the following information:

(A) The steps necessary to close the facility;

(B) the final surface contours; and

(C) a closure cost estimate based on the third-party cost of removing and disposing of the maximum amount of wastes that may be contained at the facility. (Authorized by and implementing K.S.A. 1998 Supp. 65-3406; effective Oct. 1, 1999.)

28-29-25e. Source-separated organic waste composting. For the purpose of this regulation, subsections (a), (b), (c), and (d) shall apply to each facility that composts source-separated organic waste and has a composting area of one-half acre or less. Subsections (a), (b), (c), and (e) of this regulation shall apply to each facility that composts source-separated organic waste and has a composting area larger than one-half acre.

(a) Facility design. The owner or operator of each facility that composts source-separated organic waste shall design and construct the facility to meet the following requirements:

(1) Composting surface and drainage.

(A) Storm water run-on shall be prevented from entering the receiving, processing, curing, or storage areas by the use of berms or other physical barriers.

(B) The facility shall not cause a discharge of pollutants into waters of the state in accordance with K.S.A. 65-164, and amendments thereto.

(C) Leachate control shall be provided wherever leachate is generated.

(D) The composting area shall be graded to prevent ponding of liquids.

(E) The surface of the composting area shall be capable of supporting the equipment used.

(2) Facility access.

(A) At each facility that composts source-separated organic waste that is brought in from off-site, the following information shall be posted on one or more signs:

(i) Facility name;

(ii) permit number;

(iii) site hours;

(iv) traffic flow;

(v) a list of the materials appropriate for composting; and

(vi) the name and telephone number of an emergency contact person.

(B) Unauthorized dumping shall be discouraged by access control.

(C) Access roads shall be of all-weather construction and shall be negotiable at all times. Load limits on bridges

and access roads shall be sufficient to support all traffic loads generated by the use of the facility.

(3) Capacity and storage. The facility shall have the capacity to store the following materials:

(A) Incoming materials waiting to be processed;

(B) the materials being processed; and

(C) the finished compost, not to exceed 18 months' production.

(b) Facility operations. The owner or operator of each facility that composts source-separated organic waste shall perform the following:

(1) Minimize odors;

(2) control disease vectors, dust, litter, and noise;

(3) protect the facility from scavenging by animals;

(4) segregate incoming waste from finished compost;

(5) inform the public of disposal sites for waste not acceptable for composting at the facility;

(6) limit public access to hours when an attendant or any operating personnel are at the facility;

(7) begin processing incoming waste within 24 hours of receipt;

(8) if sewage sludge is composted, comply with 40 CFR Part 503, as in effect on February 19, 1993; and

(9) remove all finished compost within 18 months of the completion of the composting process.

(c) Facility closure. The owner or operator of each facility that composts source-separated organic waste shall perform the following:

(1) Notify the department, in writing, at least 60 days before closure;

(2) remove all material from the facility within 10 days of ceasing operation; and

(3) clean all containers, equipment, machines, floors, and site surfaces that have been in contact with source-separated organic waste or solid waste.

(d) Registration. Each owner or operator of a facility that composts source-separated organic waste and has a composting area of one-half acre or less shall submit registration information to the department on a form provided by the department.

(e) Permit applications. The owner or operator of each facility that composts source-separated organic waste and has a composting area larger than one-half acre shall submit a permit application to the department on a form provided by the department. The applicant shall include the following items with the permit application:

(1) Facility design plan. The facility design plan shall contain the following items:

(A) A 7.5 minute topographic map of the area, as typically available from the U.S. geological survey, indicating the facility boundary and the property boundary;

(B) a soil map of the area, as typically available from the U.S. department of agriculture natural resources conservation services;

(C) a 100-year floodplain map of the area, as typically available from the federal emergency management agency; and

(D) plan and profile views of the facility indicating the following features:

(i) Roads;

(ii) the existing and final grades and contours;

(iii) storm water control;

- (iv) buildings and equipment to be installed;
- (v) utilities;
- (vi) access control; and
- (vii) all other structures.
- (2) Operations plan. The operations plan shall contain the following information:
 - (A) Job descriptions of persons responsible for operation, control, and maintenance of the facility;
 - (B) the anticipated annual quantity of waste to be received, and the seasonal variations of the quantity of waste to be received;
 - (C) the sources of waste to be received;
 - (D) the methods to control traffic and to expedite unloading;
 - (E) the methods for measuring incoming waste;
 - (F) the methods to control the types of waste received;
 - (G) the methods for removing noncompostable wastes from the incoming waste stream, including procedures for storage and disposal of these wastes;
 - (H) the location of disposal site for noncompostable wastes;
 - (I) the method of composting;
 - (J) a description of equipment proposed to be used in composting, including equipment specifications and manufacturer's performance standards. The proposed equipment shall be compatible with the proposed process and throughput;
 - (K) a description of any additive used in the process;
 - (L) the methods for managing biological conditions;
 - (M) a quality assurance and quality control plan that outlines the monitoring, sampling, and analysis plans for testing the compost process and product;
 - (N) the proposed end use of compost;
 - (O) the methods to minimize, manage, and monitor odors;
 - (P) disease vector, dust, litter, and noise control measures;
 - (Q) leachate and national pollutant discharge elimination system storm water control measures;
 - (R) the plans for operations during wind, heavy rain, snow, freezing temperatures, or other inclement weather conditions;
 - (S) a contingency plan for events including equipment failure, power outages, natural disasters, fire, receipt of prohibited materials, or similar interruptions of normal activities; and
 - (T) a fire protection and control plan.

(3) Closure plan. The closure plan shall include the following information:

- (A) The steps necessary to close the facility;
- (B) the final surface contours; and
- (C) a closure cost estimate based on the third-party cost of removing and disposing of the maximum amount of wastes that may be contained at the facility. (Authorized by and implementing K.S.A. 1998 Supp. 65-3406; effective Oct. 1, 1999.)

28-29-251. Solid waste composting. For the purposes of this regulation, subsections (a), (b), (c), and (d) shall apply to each facility that composts solid waste and has a composting area of one-half acre or less, except facilities that compost only yard waste, manure, dead ani-

mals, source-separated organic waste, or any combination of yard waste, manure, dead animals, and source-separated organic waste. Subsections (a), (b), (c), and (e) of this regulation shall apply to each facility that composts solid waste and has a composting area larger than one-half acre, except facilities that compost only yard waste, manure, dead animals, source-separated organic waste, or any combination of yard waste, manure, dead animals, and source-separated organic waste.

(a) Facility design. The owner or operator of each solid waste composting facility shall design and construct the facility to meet the following requirements:

(1) Composting surface and drainage.

(A) Storm water run-on shall be prevented from entering the receiving, processing, curing, or storage areas by the use of berms or other physical barriers.

(B) The facility shall not cause a discharge of pollutants into the waters of the state, in accordance with K.S.A. 65-164, and amendments thereto.

(C) Leachate control shall be provided wherever leachate is generated.

(D) The composting area shall be graded to prevent ponding of liquids.

(E) The surface of the composting area shall be capable of supporting the equipment used.

(F) The floor shall be composed of a layer of material that is at least one foot thick and has a hydraulic conductivity no greater than 10^{-7} cm/sec, or the facility shall be designed to provide the same level of protection to the groundwater.

(G) The receiving, processing, and curing areas shall be covered by a roof, or the facility shall be designed to provide the same level of protection from the weather.

(2) Facility access.

(A) At each facility that composts solid waste that is brought in from off-site, the following information shall be posted on one or more signs:

(i) Facility name;

(ii) permit number;

(iii) site hours;

(iv) traffic flow;

(v) a list of the materials appropriate for composting; and

(vi) the name and telephone number of an emergency contact person.

(B) Unauthorized dumping shall be discouraged by access control.

(C) Access roads shall be of all-weather construction and shall be negotiable at all times. Load limits on bridges and access roads shall be sufficient to support all traffic loads generated by the use of the facility.

(3) Capacity and storage. The facility shall have the capacity to store the following materials:

(A) Incoming materials waiting to be processed;

(B) the materials being processed; and

(C) the finished compost, not to exceed 18 months' production.

(b) Facility operations. The owner or operator of each solid waste composting facility shall perform the following:

(1) Minimize odors;

(continued)

- (2) control disease vectors, dust, litter, and noise;
- (3) protect the facility from scavenging by animals;
- (4) segregate incoming waste from finished compost;
- (5) inform the public of disposal sites for waste not acceptable for composting at the facility;

(6) limit public access to hours when an attendant or any operating personnel are at the facility.

(7) begin processing incoming waste within 24 hours of receipt;

(8) use one of the following processes to further reduce pathogens (PFRP):

(A) Windrow composting method. When using this method, the following conditions shall be met:

(i) Aerobic conditions shall be maintained within the windrow;

(ii) the waste shall attain a temperature of 55° C, 131° F, or greater for at least 15 days during the composting period; and

(iii) the windrow shall be turned a minimum of five times during the high temperature period;

(B) Aerated static pile composting method. When using this method, the waste shall be covered with six to 12 inches of insulating material and maintained at a temperature of 55° C, 131° F, or greater for a minimum of three consecutive days;

(C) Enclosed-vessel composting method. When using this method, the waste shall be maintained at a temperature of 55° C, 131° F, or greater for a minimum of three consecutive days; or

(D) any other method approved by the department;

(9) record the following information:

(A) The temperature and moisture content of materials during the composting process, in accordance with the operating plan;

(B) the daily volume or weight of waste received;

(C) the source of waste;

(D) all laboratory analyses required by the permit; and

(E) the volume of recovered materials; and

(10) remove all finished compost within 18 months of the completion of the composting process.

(c) Facility closure. The owner or operator of each facility that composts solid waste shall perform the following:

(1) Notify the department, in writing, at least 60 days before closure;

(2) remove all material from the facility within 10 days of ceasing operation; and

(3) clean all containers, equipment, machines, floors, and site surfaces that have been in contact with solid waste.

(d) Registration. Each owner or operator of a facility that composts solid waste and has a composting area of one-half acre or less shall submit registration information to the department on a form provided by the department.

(e) Permit applications. The owner or operator of each facility that composts solid waste and has a composting area larger than one-half acre shall submit a permit application to the department on a form provided by the department. The applicant shall include the following items with the permit application:

(1) Facility design plan. The facility design plan shall contain the following items:

(A) A 7.5 minute topographic map of the area, as typically available from the U.S. geological survey, indicating the facility boundary and the property boundary;

(B) a soil map of the area, as typically available from the U.S. department of agriculture natural resources conservation services;

(C) a 100-year floodplain map of the area, as typically available from the federal emergency management agency;

(D) plan and profile views of the facility indicating the following features:

(i) Roads;

(ii) the existing and final grades and contours;

(iii) storm water control;

(iv) buildings and equipment to be installed;

(v) utilities;

(vi) access control; and

(vii) all other structures;

(E) information on the permeability of the floor structure; and

(F) a flow diagram of the proposed processing steps involved in recovering recyclable materials and mixed organic material from solid waste, including a total mass balance.

(2) Operations plan. The operations plan shall contain the following information:

(A) Job descriptions of persons responsible for operation, control, and maintenance of the facility;

(B) the anticipated annual quantity of waste to be received, and the seasonal variations of the quantity of waste to be received;

(C) the sources of waste to be received;

(D) the methods to control traffic and to expedite unloading;

(E) the methods for measuring incoming waste;

(F) the methods to control the types of waste received;

(G) the methods for removing noncompostable wastes from the incoming waste stream, including procedures for storage and disposal of these wastes;

(H) the location of disposal sites for noncompostable wastes;

(I) the method of composting;

(J) a description of equipment proposed to be used in composting, including equipment specifications and manufacturer's performance standards. The proposed equipment shall be compatible with the proposed process and throughput;

(K) a description of any additives used in the process;

(L) the methods for managing biological conditions;

(M) a quality assurance and quality control plan that outlines the monitoring, sampling, and analysis plans for testing the compost process and product;

(N) the proposed end use of compost;

(O) the methods to minimize, manage, and monitor odors;

(P) disease vector, dust, litter, and noise control measures;

(Q) leachate and national pollutant discharge elimination system storm water control measures;

(R) the plans for operations during wind, heavy rain, snow, freezing temperatures, or other inclement weather conditions;

(S) a contingency plan for events including equipment failure, power outages, natural disasters, fire, receipt of prohibited materials, or similar interruptions of normal activities; and

(T) a fire protection and control plan.

(3) Closure plan. The closure plan shall include the following information:

(A) The steps necessary to close the facility;

(B) the final surface contours; and

(C) a closure cost estimate based on the third-party cost of removing and disposing of the maximum amount of wastes that may be contained at the facility. (Authorized by and implementing K.S.A. 1998 Supp. 65-3406; effective Oct. 1, 1999.)

Article 50.—ASBESTOS CONTROL

28-50-1. Definitions. As used in this article, the following terms have these definitions: (a) "Accredited asbestos worker" means a person who has fulfilled the training requirements and successfully completed the written examination requirements prescribed under federal law for persons who conduct response actions with respect to friable asbestos-containing material in either elementary and secondary schools or public and commercial buildings.

(b) "Agent" means any person who is not an employee of a business or public entity that has been specifically authorized by the entity to act in its behalf in regard to carrying out any activity that requires the person to be present in the work area while an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project is in progress.

(c) "Appropriate protective clothing" means outer clothing intended to be worn by a person who is engaged in asbestos-removal or asbestos-encapsulation activities. This clothing shall facilitate the removal of asbestos fibers from the person before that person moves from an area that contains asbestos fibers into an area that is intended to remain free of these fibers. Protective clothing shall consist of coveralls or a similar whole-body covering, head covers, gloves, and foot covers. Protective clothing shall be worn at all times that friable asbestos-containing materials are being handled directly and when otherwise required by OSHA or EPA regulations, work specifications governing the activities, or work plans submitted to the department in compliance with the requirements of K.A.R. 28-50-8.

(d) "Appropriate respirator" means an air-purifying or air-supplied respirator meeting either of the following criteria:

(1) A respirator approved by NIOSH for respiratory protection, under 42 C.F.R. Part 84, as in effect on October 1, 1998, for particulates and hazardous chemicals contained in encapsulants; or

(2) a respirator providing a higher protection factor if its use is specified by any of the following requirements applying to asbestos-removal or asbestos-encapsulation activities:

(A) OSHA and EPA regulations;

(B) work specifications governing the activities; or

(C) a work plan submitted to the department in accordance with the requirements of K.A.R. 28-50-8.

(e) "Appropriate warning sign" means any asbestos hazard warning sign that complies with federal OSHA or EPA regulations and is required when airborne concentrations of asbestos exceed the prescribed limits.

(f) "Approved waste disposal site" means a solid waste disposal area that is operated under a permit issued by the department, as provided in K.S.A. 65-3407, and amendments thereto, and is authorized by the department to receive friable asbestos-containing solid wastes.

(g) "Asbestos-encapsulation project" means activities that include, and are incidental to, the coating of a friable asbestos-containing surface material with a coating or penetrating type of sealing substance, when the intended purpose of the activities is to prevent the continued release of asbestos fibers from the material into the air. The following activities shall be exempt from this definition:

(1) The repainting of a previously painted asbestos-containing surface primarily for the intended purpose of improving the appearance;

(2) the application of a sealing material to a surface after the removal of asbestos from it;

(3) the application of an encapsulant to asbestos-containing material while the material is being removed;

(4) the application of a sealing substance to 10 or fewer square feet of friable asbestos-containing material that is contiguous to other types of material;

(5) the application of a sealing substance to asbestos-containing material that has previously been enclosed or encapsulated; or

(6) the painting of friable asbestos-containing material located in a privately owned single-family residence.

(h) "Asbestos label" means a label that complies with applicable federal EPA, DOT, and OSHA regulatory requirements and is to be securely affixed to a waste container that contains friable asbestos materials.

(i) "Asbestos-related demolition project" means any activity that includes the razing of all or a portion of a structure that contains friable asbestos-containing materials or other asbestos-containing materials that may become airborne if the materials are crushed or broken. This definition shall not include the demolition of a residential structure or structures unless the demolition activity is subject to the requirements of 40 C.F.R. Part 61, subpart M, as adopted by reference in K.A.R. 28-19-735.

(j) "Asbestos-related dismantling project" means activities that include the disassembly, handling, and moving of the components of any structural or equipment item that has been covered with friable asbestos-containing material without first removing this material from the item. This definition shall not include these activities when conducted for the purpose of repair, replacement, or maintenance of the item and require the removal of either 25 or fewer lineal feet of friable asbestos-containing materials from the surface of a pipe or 10 or fewer square feet of friable asbestos-containing materials from any other type of surface in order to dismantle the item.

(k) "Asbestos-related maintenance operation" means any operation that involves the removal or cleanup of either 25 or fewer lineal feet of friable asbestos-containing

(continued)

material from the surface of a pipe or 10 or fewer square feet of friable asbestos-containing material from any other type of a structural or equipment item in order to repair, replace, or maintain the item or any appurtenances to it.

(l) "Asbestos-removal project" means activities that involve, and are required by these regulations to be carried out in relation to, the removal of a friable asbestos-containing material from any of the following surfaces:

(1) A structural or equipment item that is intended to remain in place; or

(2) a structural or equipment item after its removal as a result of an asbestos-related dismantling operation.

This definition shall include activities associated with the cleanup of loose, friable asbestos-containing debris and refuse from floors and other surfaces.

This definition shall not include activities that are associated with the removal of friable asbestos-containing materials as part of an asbestos-related maintenance operation or the collection of samples for asbestos analysis.

(m) "Asbestos repair" means returning damaged friable asbestos-containing material to an undamaged state or to an intact state to contain fiber release.

(n) "Class I asbestos worker" means a person who is certified to engage in asbestos-removal or asbestos-encapsulation projects in a nonsupervisory capacity.

(o) "Class II asbestos worker" means a person who is certified to supervise and direct asbestos-removal and asbestos-encapsulation projects in compliance with the requirements of these regulations and applicable federal regulations.

(p) "Control curtain" means either of the two following types of closure devices that are to be constructed of not less than four-mil-thick plastic sheeting material and installed in an entryway of an area that is considered to be contaminated with free asbestos fibers:

(1) A ventilation curtain that is intended to allow unrestricted air flow movement into a contaminated area when it is being ventilated with an exhaust fan. This curtain shall consist of a single flap that opens into the contaminated area and is securely fastened across the top of the entryway framework in a manner that will allow it to overlap both sides of the entryway by a distance of no fewer than 12 inches and the base of the entryway by a distance of no fewer than three inches; or

(2) a confinement curtain that is intended to restrict the movement of air into, and from, an unventilated and contaminated area. This curtain shall consist of three constructed baffles that cover the entire area of the entryway and are securely fastened along the top of the entryway framework and along alternate sides of it at locations and in a manner that will allow two of the curtains to fully cover the entryway opening while a person passes through the third curtain. An airlock arrangement consisting of two baffle curtain entryways that are located at least three feet apart may be substituted for the triple baffle arrangement.

(q) "Department" means staff employed by the Kansas department of health and environment.

(r) "DOT" means the federal department of transportation.

(s) "EPA" means the federal environmental protection agency.

(t) "Emergency situation" means a condition that exists as the result of a sudden and unexpected event and is likely to cause immediate and substantial damage to persons or property.

(u) "Encapsulation" means the treatment of a friable asbestos-containing material with a substance to prevent the release of fibers into the air.

(v) "Enclosure" means the construction of an airtight, impermeable, permanent barrier around friable asbestos-containing material to control the release of fibers into the air.

(w) "Equipment" means any item that is designed or intended to perform any operation and shall include any item attached to it to assist in the operation.

(x) "Furnishings" means removable furniture, drapes, rugs, and decorative items.

(y) "Grade D breathing air" means an air supply that contains the following:

(1) 19.5-23.5 percent oxygen on a volumetric basis;

(2) not more than 10 volumes of carbon monoxide per million volumes of air;

(3) not more than 1,000 volumes of carbon dioxide per million volumes of air;

(4) not more than five milligrams of condensed hydrocarbons per cubic meter of air; and

(5) no objectionable odors.

(z) "HEPA filter" means a filter capable of trapping and retaining at least 99.97 percent of all mono-dispersed particles of 0.3 micrometers in diameter. The equivalent particulate filters, as referenced by NIOSH in 42 C.F.R. Part 84, as in effect on October 1, 1998, are the N100, R100, and P100 filters.

(aa) "NIOSH-approved respirator" means a respirator and any required attachments, including filters, that have been approved by the federal national institute for occupational safety and health under provisions of federal law.

(bb) "Occupied spaces" means a building, structure, or adjoining area that is accessible to the public, and in which a business entity, state agency, or political or taxing subdivision of the state is engaging in an asbestos project, as defined in subsections (g)(i), (j), (k), and (l) of this regulation.

(cc) "OSHA" means the federal occupational safety and health administration.

(dd) "Sealing material" means a liquid substance that does not contain asbestos and that is used to cover a surface that has previously been coated with a friable asbestos-containing material for the intended purpose of preventing any asbestos fibers remaining on the surface from being disburshed into the air. Sealants shall be colored a different color than the surface to which they are applied.

(ee) "Structural item" means roofs, walls, ceilings, floors, structural supports, pipes, ducts, fittings, and fixtures that have been installed as an integral part of any structure.

(ff) "Type C respirator system" means an airline respirator designed for atmospheres not immediately dangerous to life or health and consisting of a source of respirable breathing air, an air hose with a detachable coupling, flow control fittings, and a facepiece, helmet, or hood.

(gg) "Waste generator" means the business entity that is most directly responsible for the supervision of activities that result in the accumulation of friable asbestos-containing waste materials.

(hh) "Wet cleaning" means the process of using water or other liquid and a wet brush, mop, cloth, sponge, or similar wet cleaning device to completely remove any residue of asbestos-containing materials from surfaces on which they may be located. This definition shall not include the use of a wet vacuum cleaner to pick up wet friable asbestos-containing debris, or asbestos-contaminated wastewater.

(ii) "Wetting agent" means any chemical that is added to water to decrease its surface tension and allow it to spread more easily over or penetrate into friable asbestos-containing materials.

(jj) "Work area" means a specific room or physically isolated portion of a room, other than the space enclosed within a glove bag, in which friable asbestos-containing material is required to be handled in accordance with the requirements of this article. These areas shall be designated as work areas from the time that the room, or portion of it, is being prepared in order to carry out the removal, encapsulation, or dismantling activity until the time that the area has been cleaned in accordance with any requirements applicable to these operations. (Authorized by and implementing K.S.A. 1998 Supp. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

28-50-2. Business entity license. (a) A business entity shall not engage in an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project unless the secretary has issued, or renewed, a license authorizing the business entity to engage in the activities. This requirement shall apply to business entities that conduct the activities in occupied spaces as defined in K.A.R. 28-50-1(bb).

(b) A business entity shall not be issued a license, or a license shall not be renewed or remain in effect, unless the business entity demonstrates that it has met the following requirements:

(1) The business entity shall be owned by, or shall employ, one or more identified individuals who shall be required to be physically present at, and directly supervise, each project for which the license is required and who shall be responsible for compliance with this article. This individual shall hold a currently valid certificate as a class II asbestos worker that has been issued in accordance with this article.

(2) Each employee or agent of the business entity who will come into contact with asbestos or who will engage in an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project shall be certified and accredited as appropriate in accordance with this article.

(3) The business entity shall provide, or make available at its cost, medical examinations for all employees to the extent that the examinations are required by OSHA and EPA.

(4) The business entity shall designate an individual who is responsible for the establishment and maintenance

of its respiratory protection program. The business entity shall submit a written description of the program to the department for its approval.

(5) The business entity shall own and maintain in operable condition, at minimum, the following equipment items for use in each asbestos-removal or asbestos-encapsulation project that it proposes to engage in:

(A) Two HEPA filter-equipped portable exhaust fan units with a minimum rated capacity of 500 cubic feet per minute;

(B) two HEPA filter-equipped portable vacuum-cleaning devices equipped with hoses and attachments necessary for cleaning dry surfaces;

(C) a type C pressure demand or continuous flow respirator system. The air supply equipment shall be capable of providing sufficient volumes and pressures of grade D breathing air to accommodate the manufacturer's specifications for all respirators intended to be connected to it. A sufficient number of respirators to meet all anticipated requirements shall be maintained for use with the compressor, and all respirators, hoses, and regulators shall be designated as being NIOSH approved; and

(D) a sufficient number of air-purifying respirators to meet all anticipated requirements. At least 10 filter cartridges specifically designated for use with each of these respirators shall be maintained on a continuing inventory basis.

(6) The business entity shall not prohibit the department from inspecting any work area where an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project is being conducted under a license issued in accordance with this regulation.

(c) Any requirement of paragraph (b)(5) of this regulation may be waived by the department if the business entity demonstrates to the satisfaction of the department that compliance with the requirement is not necessary in order to assure compliance with all requirements, procedures, and standards of OSHA, EPA, and K.A.R. 28-50-9 through 28-50-14 that are applicable to asbestos abatement and encapsulation projects for which the application for license, or license renewal, has been submitted.

(d) Each application for a license, or license renewal, shall be made on a form provided by the department and shall be accompanied by a check or money order for the fee prescribed in subsection (e) of this regulation.

(e) Business entities applying for a license, or renewal of a license, to engage in asbestos-removal or asbestos-encapsulation projects shall pay an annual licensing fee of \$1,000.00. The fee shall cover a 12-month period beginning on the effective date of the issuance or renewal of the license. No portion of the fee shall be refunded if the license is suspended or revoked during the 12-month period or if the business entity otherwise discontinues the licensed activities within the state during the 12-month period.

(f) The applicant shall be notified by the department of each deficiency that it considers sufficient to deny the license or renewal of the license. The license shall be denied if the listed deficiencies are not corrected within 60 days of the mailing date of the notification. The application fee shall be retained by the department if a license is

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denied or the application is withdrawn. Each reapplication for a license shall be accompanied by the full fee prescribed in subsection (e) of this regulation. (Authorized by K.S.A. 1998 Supp. 65-5303; implementing K.S.A. 1998 Supp. 65-5303, K.S.A. 65-5304, 65-5305, 65-5306, 65-5309; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Oct. 1, 1999.)

28-50-4. (Authorized by K.S.A. 65-5303; implementing K.S.A. 65-5302, 65-5308; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; revoked Oct. 1, 1999.)

28-50-5. Asbestos worker certification. (a) A person shall not supervise or engage in an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related dismantling project unless that person has a valid class I or class II asbestos worker certificate that has been issued in accordance with this regulation. Original certificates for each person who is engaged in a project that requires certification shall be available for inspection by the department at the project site.

(b) A class I or class II asbestos worker certificate shall not be issued to any person, or renewed for that person, unless the following requirements are met:

(1) The person has successfully completed a basic training or annual review course within the preceding year that has been approved in accordance with the requirements of K.A.R. 28-50-6 or otherwise approved by the department.

(2) The person applies for a certificate or renewal of a certificate on a form provided by the department and submits, along with this application, a check or money order for the fee prescribed in subsection (c) of this regulation. Failure to comply with all requirements of this subsection within 60 days of initial submittal of the application form shall void the application. Fees accompanying voided applications shall not be returned.

(3) The person has complied with requirements of paragraphs (1) and (2) of this subsection and has submitted an application for renewal of a certificate not later than six months after the certificate has expired. Failure to renew a certificate within this time period shall require compliance with all requirements applicable to initial application for a certificate.

(c) Persons applying for a class I or class II asbestos worker certificate or renewal of these certificates shall pay an annual fee of \$20.00 for a class I certificate or an annual fee of \$40.00 for a class II certificate. This fee shall cover a 12-month period beginning on the effective date of issuance of the certificate or renewal. No portion of this fee shall be refunded if the certificate is denied, suspended, or revoked during the 12-month period or if the person no longer plans to engage in asbestos-abatement or asbestos-removal projects during any portion of the 12-month period.

(d) A certificate issued under this regulation may be suspended or revoked by the secretary if the secretary determines that the holder has performed any of the following:

(1) Fraudulently or deceptively complied with the requirements of subsection (b) of this regulation;

(2) willfully disobeyed any instructions or written procedural policies provided by an employer for the purpose of complying with these regulations;

(3) knowingly permitted another person to represent that person as the holder of the certificate; or

(4) altered or modified the certificate in a manner to represent facts that are untrue.

(e) Other provisions of this regulation notwithstanding, a person shall not supervise or engage in removal, encapsulation, enclosure, or repair of any friable asbestos-containing material located in an elementary or secondary school or public and commercial building, except as part of an asbestos-related maintenance operation, unless that person is currently an accredited asbestos worker. Persons who engage in these activities shall provide evidence, acceptable to the department, that the person has been accredited by successfully completing a federal EPA-approved training course, has been certified under a state program that has been approved by the federal EPA, or has been certified in Kansas at the class I or class II level, as appropriate, after completing training in compliance with the requirements of this article. (Authorized by K.S.A. 1998 Supp. 65-5303; implementing K.S.A. 1998 Supp. 65-5303, 65-5308, K.S.A. 65-5309, 65-5310; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

28-50-6. Asbestos worker training course approval. (a) Any person, business entity, state agency, political or taxing subdivision of the state, or other entity may develop and present a class I or class II asbestos worker certification training course that is intended to comply with the requirements of K.A.R. 28-50-5(b)(1). The training course shall be approved by the department before its official presentation for the purpose of complying with the regulatory requirements. Training courses shall be approved in writing, and the approval shall remain in effect until withdrawn in accordance with the provisions of subsection (f) of this regulation.

(b) Application for approval of a training course, as provided for in subsection (a) of this regulation, shall be made on forms provided by the department. The application shall include the following information:

(1) A listing of the persons who will present the training course, and their experience, education, and other qualifications;

(2) a description of the course, including the title and length of each lecture to be presented, the general nature of the information to be included in the lecture, the training aids and handouts intended to be used in its presentation, and the written examination to be given;

(3) the maximum number of students to be enrolled in each course presentation;

(4) the dates or time period over which individual courses are intended to be presented;

(5) the proposed charge for each course; and

(6) other information that the department considers necessary to evaluate the probable effectiveness and acceptability of the training course, including copies of the course manual and other handouts that are to be provided to the students and a copy of the written examination that is intended to be given.

Approval of a course may be denied by the department if the applicant fails to provide information required by this subsection within 60 days of receipt of written notice that an application is deficient.

(c) The applicant shall immediately inform the department, in writing, whenever there is any change in the information provided under subsection (b) of this regulation.

(d) Provisions shall be made to allow a representative of the department to attend one or more presentations of any course for which approval is required, at no cost to the department, and this course shall be given at a location within the state or at a border city as defined in K.A.R. 1-16-18. This attendance shall be for the purpose of determining compliance with this regulation and the correctness of the information being presented and shall be completed before a course is approved and any time thereafter that the department deems necessary. The applicant shall give the department at least 30-day notice before presenting the course, to allow time for scheduling departmental attendance. Approval of any course may be denied, withdrawn, or suspended by the department on the basis of findings resulting from this attendance.

(e) Training courses approved in accordance with these regulations shall meet the following criteria:

(1) Lectures shall be presented by persons who have education and experience that are appropriate for the subject matter presented.

(2) Training courses for class I asbestos workers may include respirator fit-testing of each student and shall provide a total of at least four training days of instruction consisting of the following:

(A) A discussion concerning the identification of asbestos, including its physical characteristics and a summary of its uses and the abatement procedures used for its control;

(B) a general discussion concerning the health hazards associated with exposure to asbestos, including special problems associated with smoking and a general description of common diagnostic procedures used to detect asbestos-related disease;

(C) a general description of state-of-the-art work practices used to reduce asbestos exposures to workers and the public during asbestos-removal and asbestos-encapsulation operations and emergency cleanup operations and maintenance operations, including use of wet removal methods, control of spraying operations, use of ventilation equipment, use of barriers and decontamination enclosures, use of glove bags, use of HEPA filtered vacuum-cleaning devices, and proper clean-up and waste disposal procedures;

(D) a general description of the use of personal protective clothing and the need for good personal hygiene practices, including a discussion of proper procedures for entering and exiting asbestos work areas and the need to abstain from eating, drinking, or smoking in these areas;

(E) a detailed description of the level of protection afforded by different types of respirators, the procedures for proper use and care of respirators, including donning, seal testing, cleaning, and storage, and the components of a proper respirator protection program;

(F) a general description of other hazards commonly encountered in asbestos control work, including electrical shock, falls, cuts, fires, heat exhaustion or heat stroke, confined spaces, air contaminants other than asbestos, and measures that need to be taken to avoid and respond to them;

(G) a general description of state and federal regulations intended to provide protection to asbestos workers, including information on federal requirements pertaining to medical examinations and air monitoring and how people responsible for their enforcement may be contacted;

(H) no fewer than 14 hours of hands-on training in the proper use of work procedures identified in paragraph (e)(2) (C); and

(I) a separate final review session to discuss key information that is presented during the remainder of the course.

(3) Training courses for class II asbestos workers may include respirator fit-testing of each student and shall provide a total of at least five training days of instruction. The instruction shall include discussion of the following topics in addition to the instruction required by paragraph (e)(2) of this regulation:

(A) A detailed discussion of asbestos-related notification and record-keeping requirements included in state and federal regulations and records recommended to be kept for legal and insurance purposes;

(B) a detailed discussion of Kansas and federal requirements concerning work procedures to be followed in asbestos-removal and asbestos-encapsulation projects, including the following requirements:

(i) Requirements of Title II of the federal toxics substance control act;

(ii) requirements of Kansas and federal air pollution control regulations that pertain to asbestos removal associated with the renovation and demolition of structures;

(iii) requirements of OSHA pertaining to respiratory protection practices and programs that are applicable to asbestos-control activities;

(iv) requirements of the OSHA construction and general industry standard pertaining to asbestos;

(v) requirements of the OSHA construction industry standards applicable to safe work practices at temporary work sites, including requirements concerning fire safety and hazard communication; the use of scaffolds, ladders, and electrical equipment; and working in confined spaces;

(vi) requirements of the EPA worker protection rule that applies to public employees who engage in asbestos-control activities; and

(vii) work practice requirements defined in K.A.R. 28-50-9 through 28-50-14;

(C) a general discussion of the principles and procedures involved in assessing the hazards associated with exposures to asbestos-containing building materials before undertaking abatement actions;

(D) a general discussion of the principles and procedures involved in collecting, analyzing, and interpreting the results of clearance-type airborne asbestos samples

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collected under federal EPA regulatory requirements after response actions have been completed in schools;

(E) a general discussion of insurance and liability issues that are encountered in relation to asbestos-control activities including the type of coverage and exclusions associated with worker's compensation and other types of insurance and third party liabilities and defenses;

(F) a general discussion about the purpose, development, and use of contract specifications in asbestos-control work; and

(G) a general discussion about supervisory practices that are effective in the establishment and maintenance of proper and safe work practices at asbestos-control work sites.

(4) Training courses intended to provide annual review training required by state statute for class I and class II asbestos workers shall consist of at least one full training day and shall provide information on one or more topics listed in paragraphs (2) and (3) of this subsection, including a general presentation concerning new state and federal asbestos control-related regulatory requirements that are in effect or pending at the time that the training is presented and any other subject matter that may be prescribed by the department before the presentation of the training. The annual review training courses for class I and class II asbestos workers shall be conducted as separate and distinct courses and shall not be combined with any other training throughout the course.

(5) Training courses for initial certification of class I and class II asbestos workers shall include the administering and grading of a written, closed book examination for all persons who attend the course. The examinations shall adequately cover the subject matter prescribed by paragraphs (2) and (3) of this subsection and shall consist of 50 multiple-choice questions for class I worker training courses and 100 multiple-choice questions for class II worker training courses. Only persons who correctly answer 70 percent or more of the questions included in the examination shall be considered to have successfully completed the training course for the purpose of certification under the provisions of K.A.R. 28-50-5(b)(1).

(f) Approval of any training course that fails to comply with the requirements of this regulation or is otherwise deemed unacceptable may be withdrawn by the department. The person responsible for presentation of the training course shall be notified by the department of the basis for the proposed withdrawal in writing, and a 30-day time period shall be allowed for the identified deficiencies to be corrected before a final written notice is issued to indicate that the approval is withdrawn.

(g) Each person who has attended any asbestos control-related training course that is required for asbestos worker certification or accreditation in any other state where the person is certified or accredited or any other asbestos training course that has been approved by the federal EPA may be considered to have met the requirements of K.A.R. 28-50-5(b)(1) for initial certification or certification renewal if the department determines that the training course essentially complies with the requirements of subsection (e) of this regulation. Each person requesting that the determination be made shall submit the following information to the department:

(1) The date or dates that the course was attended and the location;

(2) the name and address of the business, organization, institution, or agency that presented the course;

(3) a schedule or outline of the course that indicates the subject matter that was presented and the amount of time devoted to each subject; and

(4) a written, personal certification that the person attended all course presentations in their entirety on the dates specified.

(h) Each person who applies for initial certification or certification renewal under the provisions of subsection (g) of this regulation may be required to complete additional training on topics included in subsection (e) before issuance or renewal of a certificate if the department determines that the credited course did not substantially comply with the requirements of subsection (e) of this regulation. (Authorized by K.S.A. 1998 Supp. 65-5303; implementing K.S.A. 1998 Supp. 65-5303, 65-5308; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

28-50-7. (Authorized by and implementing K.S.A. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; revoked Oct. 1, 1999.)

28-50-8. Asbestos project notification requirements. (a)(1) Each licensee, state agency, or political or taxing subdivision of the state that proposes to use its own employees to engage in an asbestos-removal project, an asbestos-encapsulation project, an asbestos-related dismantling project, or an asbestos-related demolition project shall notify the department of this intent by submitting a properly completed written notification in a manner that will reasonably assure its receipt at the department's offices not later than 10 working days before the project is intended to be started. This requirement shall apply to projects conducted in occupied spaces as defined in K.A.R. 28-50-1(bb). Improperly completed notifications may be returned for correction and required to be resubmitted in accordance with the requirements of this subsection. For the purpose of this regulation, "working days" means days other than Saturdays, Sundays, or legal holidays.

(2) The 10-day notification requirement may be waived by the department in emergency or other situations if the written notification required by subsection (b) is received a sufficient amount of time before initiation of the project to allow the department to complete any proposal reviews or inspections that it considers to be necessary. An emergency notification may be made verbally but shall be verified in writing within one working day afterwards.

(b) The notification required by subsection (a) of this regulation shall be submitted on forms provided by the department and shall be accompanied by a check or money order for payment of the fee prescribed by subsection (d) of this regulation, except as otherwise provided by that subsection. The notification shall include the following information and any additional information that is requested by the department in order to de-

termine the nature of the project and to identify any state and federal laws or regulations that are applicable to it:

(1) A description of the structure in which the activities will be carried out;

(2) the anticipated dates during which the activities will be carried out;

(3) the anticipated amount and type of friable asbestos-containing material that will be involved in the activity;

(4) a general description of the work practices that will be followed, including containment and worker protection measures that are proposed;

(5) a listing of the employees that will be involved in the project or operation and information concerning whether or not the employees have been certified in accordance with these regulations or have received special asbestos-related work training; and

(6) the manner in which asbestos-containing materials are to be disposed of.

(c) Each notification that is provided in accordance with the requirements of subsections (a) and (b) of this regulation and indicates that the activity for which the notification has been provided will be, or is likely to be, carried out in violation of any of the requirements of an asbestos-control regulation that pertains to the project shall be considered to be an invalid notification. The person who submits the notification shall be notified by the department of the nature of the identified violation as quickly as practicable before the activity is scheduled to start. A notification that has been revised to eliminate the identified violation shall be submitted in accordance with the requirements of subsection (a) of this regulation and shall be approved by the department before the activity is initiated.

(d) Each business entity that engages in an asbestos-removal project, an asbestos-encapsulation project, an asbestos-related dismantling project, or an asbestos-related demolition project that is required to be reported under this regulation shall pay a project evaluation fee that has been calculated in accordance with the following requirements:

(1) A baseline fee of \$50 shall be paid for each activity required to be individually reported under this regulation.

(2) An additional fee shall be paid for each asbestos-removal project, asbestos-encapsulation project, asbestos-related dismantling project, and asbestos-related demolition project involving 260 lineal feet or more of friable asbestos-containing material that is installed on a pipe surface or 160 square feet or more of friable asbestos-containing material that is installed on the surface of any other type of structural or equipment item. The additional fee shall be based upon the amount of money proposed to be paid to the business entity for the completion of all project-related activities that are subject to the requirements of these regulations and shall be calculated as 0.5 percent of the amount of this payment, except that the fee shall be rounded off to the nearest whole dollar and shall not exceed \$2,500. If the business entity is to be paid a lump sum to cover the work done on facilities that are required to be reported on more than one notification form, or a lump sum that will only be reasonably determinable upon completion of one or more reportable ac-

tivities, an alternate schedule that will permit delayed payment of the fee established under this subsection may be approved by the department.

(3) If the department agrees to waive the normal 10-day notification period for other than emergency situations, under provisions of subsection (a) of this regulation, the project evaluation fee shall be two times the amount that is calculated in accordance with the provisions of paragraphs (d)(1) and (d)(2) of this regulation.

(4) If the payment used to calculate the fees established by paragraph (d)(2) of this regulation subsequently changes, the department shall be immediately advised of the reason for, and the amount of, this change. When the payment is proposed to be increased, the fee shall also be increased in accordance with the provisions of paragraphs (d)(1) and (d)(2). No portion of a fee that is initially paid shall be refunded if the payment to the contractor has been reduced below the amount that was used to originally calculate the fee. (Authorized by K.S.A. 1998 Supp. 65-5303; implementing K.S.A. 1998 Supp. 65-5302, 65-5303, K.S.A. 65-5307, 65-5312, 65-5309; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

28-50-9. Work practices for asbestos-removal projects in occupied spaces. (a) Each asbestos-removal project that involves the removal of friable asbestos-containing materials from a structural item or equipment that is located in any area that can be expected to subsequently be reoccupied by any person after the project is completed, or in an area that is only directly accessible from an area that is, or subsequently will be, occupied by any person other than persons directly involved in the project, shall be conducted in accordance with the following requirements:

(1) Each proposed work area shall be isolated from other areas of the building and outside areas by erecting temporary partitions that are rigid and airtight around the work area or by installing airtight seals over doorways, windows, and ventilation system openings, except that doorways between the work area and decontamination facilities and waste load-out areas shall be closed off with a control curtain. At least one temporary partition or seal shall contain a clear viewing area that is 18 inches or more in height and width and is installed in a manner that will allow direct visual observation of the work area from a location outside of the work area. Plastic sheeting used for the construction of airtight seals shall be not less than four mils thick. Whenever possible, each heating and ventilation system serving the work area shall be shut down and locked out. If these systems cannot be shut down, special provisions shall be made to assure that airborne contamination from the work area cannot enter the ventilation system and be carried to other areas of the building. Appropriate warning signs shall be prominently posted at all entryways into the work area. Provisions shall be made to prevent any person other than those persons having responsibilities directly related to the project from entering the area before the requirements of paragraphs (9) and (12) of this sub-

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section are met and the project is approved in accordance with all other applicable requirements.

(2) All movable furnishings, equipment, and fixtures in the proposed work area shall be precleaned with a HEPA filter-equipped vacuuming device or wet cleaning methods. After cleaning, the items shall be removed from the work area and stored in an area that is not subject to contamination with asbestos fibers. The items shall not be returned to the work area until final room cleanup has been completed, and approved in accordance with requirements applicable to the project.

(3) All structural item surfaces, other than those from which asbestos is to be removed, and all non-movable furnishings, equipment, and fixtures remaining in the proposed work area shall be precleaned with a HEPA filter-equipped vacuuming device or wet cleaning methods and covered with not less than four-mil-thick plastic sheeting, except that floors shall be covered with a minimum of two layers of six-mil-thick plastic sheeting that extends up the walls at least 12 inches. Plastic sheeting on walls shall be affixed to the wall in a manner that assures that it will remain in position throughout the length of the project and shall overlap the floor sheeting at least 12 inches above the intersection of the walls with the floor. Any tears that are noted in the protective plastic sheeting required by this subsection shall be immediately repaired.

(4) HEPA filter-equipped ventilation fans shall be installed in a manner that will continually exhaust air from all locations within the work area. The total capacity of the fans shall be sufficient to remove the entire volume of air contained in the workroom area within 15 minutes or less, unless a longer time period is specifically approved by the department. The removed air shall be discharged through a duct that has been installed through the plastic on the walls in a manner that will provide an airtight seal between the plastic and the outside surface of the duct. The exhausted air shall be discharged outside of the building whenever possible and shall not be discharged inside the building, unless this discharge is specifically approved by the department in writing. Each ventilation fan shall be continuously operated throughout the duration of the project until the action required by paragraph (12) of this subsection is completed. Each fan shall be operated in a manner that establishes, and maintains, a flow of air into the work area from all adjacent areas of the building as demonstrated by use of smoke-producing tubes. At a minimum, these determinations shall be made and the results recorded before initiation of asbestos-removal operations and at the start of each day's operation.

(5)(A) A decontamination facility shall be provided between the work area and building areas intended to remain uncontaminated with asbestos fibers generated by the asbestos-removal operations. All persons entering or leaving the work area shall pass through and use the decontamination facility. Each decontamination facility shall consist of the following designated areas, which are each to be entered through a doorway that is covered by a control curtain:

(i) A clean room that shall be maintained free of asbestos-containing debris and shall be first entered by any

persons entering the work area. The clean room shall be constructed in a manner that provides adequate space for removing or putting on street clothing, putting on and fit-testing respirators, and putting on protective clothing and other protective equipment required to be worn in the work area.

(ii) A shower room that shall be first passed through by any person that moves from the work area into the clean room. These persons shall be required to shower before entering the clean room. Each shower room shall be provided with at least one shower head that is supplied with hot and cold water. Adequate quantities of soap, hair shampoo, and towels shall be provided to accommodate each person who emerges from the work area. Shower enclosures shall be leak proof and constructed of disposable or easily washable material. Shower water may be drained directly into the building's plumbing system or collected for subsequent disposal in accordance with the requirements of K.A.R. 28-50-14.

(iii) An equipment room that shall be passed through before the shower room can be entered from the work area. The equipment room shall be used for temporary storage of contaminated tools, equipment, and protective clothing used in the work area. The floor and walls of the room shall be lined with not less than six-mil-thick plastic sheeting. Tools, equipment, and protective clothing shall be free of gross contamination before removal from the work area into the equipment room.

(B) All decontamination facility areas shall be fully enclosed and shall be contiguous to each other and the work area unless connected to one another by enclosed passageways that are effectively isolated from areas intended to remain free of asbestos contamination. Decontamination facilities shall remain in place and in functional condition until removal of airtight seals and partitions is authorized in accordance with the requirements of K.A.R. 28-50-9(a)(12).

(6) A waste load-out area may be constructed between the work area and the exit through which asbestos-containing waste materials are intended to be removed from the work area. If a waste load-out area is provided, it shall be totally enclosed, and the doorway between the work area and the waste load-out area shall consist of a combination of control curtain and rigid door. The floor of the load-out area shall be covered with not less than six-mil-thick plastic sheeting, which shall be kept clean and free of visible asbestos-containing debris. Floor covering shall be removed upon completion of the project and disposed of in compliance with the requirements of K.A.R. 28-50-14. Asbestos-containing waste shall not be transferred from the waste load-out area unless it has been placed in containers that comply with the requirements of K.A.R. 28-50-14(a). Waste containers shall be removed from the waste load-out area only by persons who enter the load-out area from an area that is intended to be maintained free of asbestos-containing debris generated by the removal operations. The doorway between the work area and load-out area shall be kept secured except when waste materials are being transferred from the work area. The load-out area doorway shall not be used as an entrance or exit by persons who leave or enter the work area.

(7) All exposed surfaces of friable asbestos-containing materials shall be maintained in a wet condition while the material is being removed or cleaned up from structural or equipment items. Any friable asbestos-containing material shall be wetted with a water solution containing an effective wetting agent. The wetting solution shall be applied with a low pressure spraying system. The effectiveness of the solution in penetrating the asbestos-containing materials shall be determined by applying it to a small representative sample of the material before the gross removal operation is initiated. The removed friable asbestos-containing materials shall be maintained in a wet condition until placed in sealed containers for disposal in accordance with the requirements of K.A.R. 28-50-14. All accumulations of loose debris shall be removed from floors and other surfaces and placed in sealed bags or containers as quickly as practicable and at least daily.

(8) After the asbestos-containing materials have been removed from the structural or equipment items, all plastic sheeting, equipment, and surfaces in the work area shall be cleaned with a HEPA filter-equipped vacuuming device or by wet cleaning methods and shall be free of all visible debris, but if more than one layer of plastic sheeting has been used on walls and floors, this additional layer of sheeting may be removed and disposed of instead of being cleaned. Sheetting that is removed shall be disposed of in compliance with the requirements of K.A.R. 28-50-14. Any liquid or material that has leaked through these additional layers of sheeting shall be removed by wet cleaning methods.

(9) The surfaces from which the friable asbestos-containing materials have been removed shall be cleaned free of all visible residues and then covered with an effective sealing material before the final layer of plastic sheeting covering the floors, walls, and non-movable items is removed.

(10) After the sealant has dried, the plastic wall and floor coverings shall be removed and disposed of in compliance with the requirements of K.A.R. 28-50-14. After removal of the plastic wall and floor coverings, all surfaces in the work area shall be cleaned with a HEPA filter-equipped vacuuming device or by wet cleaning methods and shall be free of all visible debris.

(11) After completing the requirements in paragraph (10) of this subsection, clearance monitoring, as described in 40 C.F.R. 763.90(i), as in effect on July 1, 1998 and hereby adopted by reference, may be conducted. In the absence of clearance monitoring, an air stream from a high speed leaf blower or equivalent device shall be swept across all surfaces within the work area for a period of not less than five minutes for each 1,000 square feet of surface area.

(12) Each temporary partition and airtight seal provided for doors, windows, and duct openings in accordance with paragraph (1) of this subsection shall remain in place until the sampling results from the clearance monitoring, referenced in K.A.R. 28-50-9(a)(11), indicate compliance or in the absence of clearance monitoring, the temporary partitions and airtight seals shall remain in place for no fewer than 24 hours after completion of the actions required by paragraph (11) of this subsection and

until the cleanup is approved in accordance with any other special requirements applicable to the project.

(b) Any individual requirement of subsection (a) of this regulation may be waived by the department for asbestos-removal projects if the notification submitted in accordance with K.A.R. 28-50-8 identifies the requirements for which waiver is requested, the reason for requesting the waiver, and any alternate procedure that is proposed. A waiver shall not be granted unless the health and safety of the workers and building occupants are adequately protected. The following minimum requirements shall also be met:

(1) The work area in which the asbestos is to be removed shall be completely isolated from any other areas of the building by the construction or installation of airtight barriers that shall continually remain in place for the duration of the asbestos removal project until final cleanup is completed and approved in accordance with requirements applicable to the project.

(2) Appropriate warning signs shall be prominently posted at all entryways into the work area, and access to the work area shall be restricted to only those persons that are required to enter it because of responsibilities directly related to the project until the requirements of paragraphs (3) and (4) of this subsection are met and the project is approved in accordance with all other applicable requirements.

(3) The surfaces from which the asbestos-containing materials have been removed shall be cleaned free of all visible residue and covered with an effective sealant before the warning signs required by paragraph (2) of this subsection are removed and access to the work area of persons other than those directly involved in the project is permitted.

(4) All visible asbestos-containing debris shall be removed from the work area before the warning signs required by paragraph (2) of this subsection are removed or access to the work area of persons other than those directly involved in the project is permitted.

(5) Asbestos contamination shall be removed from all persons that have been in the work area before they leave the premises or enter any area intended to remain free from asbestos contamination. All equipment used on the project shall be cleaned free of visible debris before it is removed from the work area.

(6) The waiver and all proposed alternative procedures shall be approved by the department in writing before the project is initiated, except that verbal approval may be provided if the 10-day notification period has been waived in accordance with the provisions of K.A.R. 28-50-8(a).

(c) The requirements of subsections (a) and (b) of this regulation may be waived by the department for the removal of friable asbestos-containing materials from the surface of pipes, structural items, or other similar conduits if the following minimum requirements are met:

(1) All friable asbestos-containing materials proposed to be removed in the work area shall be removed using six-mil-thick or thicker leak-proof glove bags in accordance with the manufacturer's instructions. Glove bags shall not be used to remove asbestos-containing materials

(continued)

from surfaces having a temperature of 150°F or more unless written authorization to do so is provided by the department before the removal.

(2) Appropriate warning signs shall be prominently posted at all entryways into the work area. Provisions shall also be made to prevent any person other than those persons that have responsibilities directly related to the project from entering the work area until the actions required by paragraphs (6), (7), and (8) of this subsection are completed and the project is approved in accordance with all other applicable requirements.

(3) Each person using the glove bag shall avoid damaging or otherwise causing the release of asbestos fibers from any other friable asbestos-containing materials that are located within the work area, including any debris that may have accumulated in the area before the start of the project. Each section of the pipe, structural item, or conduit from which damaged or loose hanging friable asbestos-containing material is to be removed that is not immediately enclosed within a glove bag shall be tightly enclosed in six-mil-thick plastic sheeting until a glove bag is placed over it and the asbestos-containing material is removed.

(4) Glove bags shall be sealed to the pipe, structural item, or conduit in a manner that provides an airtight seal around the area from which the asbestos is to be removed until the glove bag is removed, unless the manufacturer's instructions require air pressure within the bag to be maintained below the pressure outside of the bag. Glove bags shall not be moved and used for removal at more than one location except under written authorization provided by the department and in compliance with any special requirement imposed as a condition for granting the authorization.

(5) All exposed surfaces of friable asbestos-containing materials shall be wetted with a water solution containing an effective wetting agent while the material is removed, and the removed material shall be maintained in a wet condition while it remains in the glove bag until the bag is sealed for final disposal in accordance with the requirements of K.A.R. 28-50-14.

(6) Surfaces from which asbestos-containing materials have been removed shall be cleaned free of all visible residues before the glove bag is removed.

(7) A sealing material shall be applied to all surfaces from which the asbestos-containing material is removed, and to all friable asbestos-containing material surfaces that become exposed as a result of this removal before the warning signs required by paragraph (2) of this subsection are removed or access to the work area of persons other than those directly involved in the project is permitted.

(8) The work area shall be free of all visible asbestos containing debris, including accumulations that existed before the start of the project and before the warning signs required by paragraph (2) of this subsection are removed or access to the work area of persons other than those directly involved in the project is permitted.

(9) Each project activity in the work area shall be immediately discontinued if any asbestos contamination of the general work area results from damage or improper use of the glove bags or if there is damage to any other

friable asbestos-containing materials located within the area. Project activities shall not be resumed until all surfaces in the area that are likely to have become contaminated with asbestos fibers have been thoroughly cleaned with a HEPA filter-equipped vacuuming device or by wet cleaning methods. Each person who is likely to be contaminated with asbestos fibers resulting from these sources, including the cleanup operation, shall remove, or use a HEPA filter-equipped vacuuming device or wet cleaning methods to clean all contaminated outer work clothing before leaving the work area.

(d) The requirements of subsections (a) and (b) of this regulation may be waived by the department for an asbestos-removal project that involves the removal of friable asbestos-containing materials from structural items or equipment that is installed in, and accessible from, outdoor areas, if the following minimum requirements are met:

(1) Each door, window, or other opening into enclosed areas that is adjacent to the work area shall be securely covered with not less than four-mil-thick plastic sheeting if the opening is located 100 or fewer feet from the work area.

(2) A person other than the persons that have responsibilities directly related to the project shall not be allowed to occupy or pass through any unenclosed area that is located 50 or fewer feet from the work area. This area shall be identified and defined by fences or other effective means. Appropriate warning signs shall be prominently posted at all entryways into the area until the requirements of paragraphs (4) and (5) of this subsection are met and the project is approved in accordance with all other applicable requirements.

(3) All exposed surfaces of friable asbestos-containing material shall be wetted with a water solution that contains an effective wetting agent while the material is being removed. All removed material, including debris on surfaces below the location from which the material is removed, shall be maintained in a wet condition until placed in sealed containers for disposal in accordance with the requirements of K.A.R. 28-50-14.

(4) All friable asbestos-containing debris, including accumulations that existed before the start of the project, shall be removed from the work area before the warning signs required by paragraph (2) of this subsection are removed or access to the area of persons other than those having responsibilities directly related to the project is permitted.

(5) All surfaces from which asbestos-containing materials are removed shall be cleaned free of visible residues and covered with an effective sealant before the warning signs required by paragraph (2) of this subsection are removed or access to the area of persons other than those having responsibilities directly related to the project is permitted.

(6) Each person who removes asbestos-containing materials or otherwise occupies the restricted area identified in paragraph (2) of this subsection shall remove outerwear that is worn in the area before entering any enclosed area that is occupied by any person other than those persons engaged in the project.

(e) The requirements of subsections (a) and (b) of this regulation may be waived by the department for an asbestos project that involves the removal of friable asbestos-containing materials from structural items that are installed in, and accessible from, any structure or portion of a structure that is demolished after the material is removed, if the following minimum requirements are met:

(1) Appropriate warning signs shall be prominently posted at all areas into the work area, and persons other than the persons that have responsibilities directly related to the asbestos-removal project shall not be allowed to occupy or pass through the work area until the requirement of paragraph (4) of this subsection is met and the project is approved in accordance with any other applicable requirements.

(2) Each window, door, and other direct opening between any area where asbestos is to be removed and any other area of the structure that is not intended to be demolished shall be sealed airtight, with securely fastened plastic sheeting, until the project is completed. The plastic sheeting seals shall be not less than four mils thick.

(3) All exposed surfaces of friable asbestos-containing material shall be maintained in a wet condition while the material is being removed. The material shall be wetted with a water solution containing an effective wetting agent. All removed friable asbestos-containing material, including debris that falls on surfaces below the location from which the material is removed, shall be maintained in a wet condition until placed in sealed containers in accordance with the requirements of K.A.R. 28-50-14.

(4) All friable asbestos-containing debris, including accumulations that existed before the start of the project, shall be removed from the work area before the warning signs required by paragraph (1) of this subsection are removed or access to the work area of persons other than those having responsibilities directly related to the project is permitted.

(5) Each person who removes asbestos-containing materials or otherwise occupies the work area before the project is completed shall remove outerwear that is worn in the area before entering any enclosed area that is occupied by any person other than those persons engaged in the project.

(6) Structural items from which friable asbestos-containing material is removed shall not be sold or reused for any purpose unless the surfaces from which the material has been removed are free from visible residue and have been covered with an effective sealing material, unless the sealing requirement is waived by the department in writing.

(f) Each person engaged in an asbestos-removal project or entering an asbestos-removal project work area shall be provided with, and shall wear, an appropriate respirator and protective clothing.

(g) Airborne asbestos exposures of each person engaged in an asbestos-removal project shall be determined in accordance with applicable OSHA or EPA exposure-monitoring requirements. Copies of the results of the analyses of samples collected at a project subject to the requirements of this regulation shall be submitted to the department as soon as practicable, after receipt of a written request for the results of the analyses from the de-

partment. (Authorized by and implementing K.S.A. 1998 Supp. 65-5303; effective, T-86-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended, T-89-8, March 18, 1988; amended, T-89-15, April 26, 1988; amended Sept. 19, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

28-50-10. Work practices for asbestos-encapsulation projects. (a) Use of encapsulation as a method of controlling asbestos fiber release from friable asbestos-containing materials on structural items or equipment shall be subject to the following requirements:

(1) Encapsulating materials shall not be applied to fibrous, sprayed-on, asbestos-containing materials or to cementitious asbestos-containing materials that show signs of poor adhesion.

(2) Encapsulating material shall not be applied to friable asbestos-containing materials that are installed on surfaces in locations that are subject to frequent abrasive or other physical damage.

(3) Penetrating encapsulating agents shall be tested for, and shall demonstrate, acceptable adhesive and penetrating characteristics. Testing shall consist of applying the encapsulant to the surface of the material in the prescribed manner and then removing a core sample of this material for physical and visual inspection. Representative testing shall be conducted at one or more randomly selected locations within the structure before initiation of the project. Test core holes shall be repaired immediately after the visual inspection is completed.

(4) Encapsulant materials shall have acceptable flame retardant characteristics and shall not be noxious or toxic to applicators or to persons that occupy the structure after the project is completed.

(5) Each damaged portion of a surface to which the encapsulant material is to be applied shall be repaired with asbestos-free patching materials before it is applied.

(b) An encapsulation project that involves the encapsulation of friable asbestos-containing materials shall be conducted in accordance with the work practices contained in 29 C.F.R. 1926.1101, as in effect on July 1, 1998 and hereby adopted by reference.

(c) Each person engaged in an asbestos-encapsulation project or entering an asbestos-encapsulation project work area shall be provided with, and shall wear, an appropriate respirator and protective clothing. (Authorized by and implementing K.S.A. 1998 Supp. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended Feb. 4, 1991; amended Oct. 1, 1999.)

28-50-14. Asbestos waste disposal. (a) All solid waste materials containing friable asbestos that result from an asbestos-removal project, an asbestos-encapsulation project, an asbestos-related dismantling project, or an asbestos-related demolition project shall be handled in the following manner:

(1) All friable asbestos-containing waste shall be placed in tightly sealed containers in a wet condition before it is removed from the work area. Waste containers shall be double bagged in not less than six-mil-thick, liquid-tight, clear plastic bags unless the waste contains rigid or heavy objects that are likely to tear the bags. If

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bag damage is likely to occur, the waste shall be placed in fiber or metal containers that are equipped with a plastic bag liner and a tight-fitting lid that can be firmly fastened in position. Large sections of structural items, including pipe or ductwork that has been removed with friable asbestos-containing materials left in place, may be tightly wrapped in not less than a double layer of six-mil-thick, clear plastic sheeting for disposal purposes if they cannot be placed in containers. All exposed surfaces of the friable asbestos-containing material shall be in a wet condition when each item is wrapped.

(2) The exterior surface of each container or individually wrapped object shall be cleaned, free of all visible debris, and an asbestos label shall be securely attached before the container or wrapped object is removed from the work area to another area for storage or transport purposes.

(3) Before each container or wrapped object of friable asbestos-containing material is removed from the work area to another area for storage or transport purposes, the waste generator shall place on the exterior of each container or wrapped object specific information that will identify the asbestos-removal project, asbestos-encapsulation project, asbestos-related dismantling project, or asbestos-related demolition project at which the waste was generated. The identifying information shall be legible and printed with indelible ink. The waste generator shall mark each container or wrapped object by any of the following methods:

(A) Printing or attaching to each container or wrapped object a label that contains the name of the licensed business entity or approved public agency that carried out the project and the project location at which the waste was generated;

(B) printing on the exterior surface of each container or wrapped object the identifying number provided by the department for each project upon receipt of a project notification submitted in compliance with the requirements of K.A.R. 28-50-8; or

(C) attaching to each container or wrapped object a label that meets the requirements of applicable federal EPA or OSHA regulations pertaining to the identification of containers or wrapped objects used for the disposal of asbestos-containing materials.

(4) Each waste container shall be carefully handled and transported in order to prevent breaking or opening. Whenever a container breaks or otherwise becomes unable to completely contain the waste, the waste shall be immediately transferred into another sealed container that complies with the requirements of paragraphs (a)(1) and (a)(2) of this regulation. Any friable asbestos-containing solid waste materials that come out of the original container shall be immediately cleaned up after being sat-

urated with water and placed in the replacement container.

(5) Waste shall be transported in vehicles that have completely enclosed cargo areas, or a four-sided cargo area that shall be completely covered with six-mil-thick plastic sheeting or other equivalent covering while the waste is being transported. All visible debris remaining in the vehicle cargo area after the waste has been deposited at the disposal area shall be immediately removed by wet cleaning methods and disposed of in accordance with the requirements of this subsection.

(6) The waste generator shall remain responsible for storage, transport, and disposal of the waste in accordance with this subsection until the time that the waste is delivered to and accepted by the operator of an approved waste disposal site. The waste generator shall be released from further responsibility for handling of the waste when the disposal site operator acknowledges, in writing, that the delivered waste has been properly identified as friable asbestos-containing material and has been delivered in a manner and condition that is acceptable to the disposal site operator.

(b) Wastewater and other liquid waste that contains friable asbestos-containing materials that result from an asbestos-removal project, an asbestos-encapsulation project, or an asbestos-related maintenance, dismantling, or demolition operation may be disposed of by mixing them with solid waste materials and disposing of the mixture in accordance with the requirements of subsection (a) of this regulation. Wastewater that cannot be handled in this manner shall be disposed of by one of the following methods:

(1) Wastewater from decontamination showers and final cleanup of waste containers and equipment may be disposed of in public sewer systems either by discharge into the plumbing system where the waste is generated or by storing the waste and discharging it directly into the sewer system at a location designated by the operator of the system. The wastewater shall be free of any material that is likely to cause stoppage in the plumbing or sewer systems.

(2) Discharge of any other asbestos-contaminated wastewater or liquid waste or the use of any other method for the disposal of contaminated liquid wastes shall only be at a location and in a manner specifically approved by the department in writing. (Authorized by and implementing K.S.A. 1998 Supp. 65-5303; effective, T-87-1, Jan. 6, 1986; effective May 1, 1987; amended, T-88-54, Dec. 16, 1987; amended May 1, 1988; amended Feb. 4, 1991; amended Oct. 1, 1999.)

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024288

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This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the index to the 1997 Volumes of the *Kansas Administrative Regulations* and the 1999 Supplement to the *Kansas Administrative Regulations*.

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80-5-7	Revoked	V. 18, p. 1234
80-5-9	Amended	V. 18, p. 1234
80-5-10	Amended	V. 18, p. 1234
80-5-11	Amended	V. 18, p. 1234
80-5-12	Revoked	V. 18, p. 1234
80-5-13	Amended	V. 18, p. 1234
80-5-14	Revoked	V. 18, p. 1234
80-5-15	Amended	V. 18, p. 1234
80-5-16	Amended	V. 18, p. 1235
80-5-18	Amended	V. 18, p. 1235
80-7-1	Amended	V. 18, p. 1235
80-8-2	Amended	V. 18, p. 1236
80-8-7	Amended	V. 18, p. 1236
80-50-1	Revoked	V. 18, p. 1236
80-50-2	Amended	V. 18, p. 1236
80-50-3	Amended	V. 18, p. 1236
80-50-4	Revoked	V. 18, p. 1236
80-50-5	Revoked	V. 18, p. 1236
80-50-6	Amended	V. 18, p. 1236
80-50-8	Revoked	V. 18, p. 1237
80-51-1	Revoked	V. 18, p. 1237
80-51-2	Revoked	V. 18, p. 1237
80-51-3	Revoked	V. 18, p. 1237
80-51-4	Amended	V. 18, p. 1237
80-51-5	Revoked	V. 18, p. 1237
80-51-7	Revoked	V. 18, p. 1237
80-52-1	Revoked	V. 18, p. 1237
80-52-2	Revoked	V. 18, p. 1237
80-52-3	Revoked	V. 18, p. 1237
80-53-2	through	
80-53-6	Revoked	V. 18, p. 1237
80-54-1	through	
80-54-4	Revoked	V. 18, p. 1237
80-55-1	through	
80-55-4	Revoked	V. 18, p. 1237
80-55-8	Amended	V. 18, p. 1237

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-1-221a	New	V. 18, p. 231
82-1-221b	New	V. 18, p. 232
82-1-228	Amended	V. 18, p. 232
82-1-235	Amended	V. 18, p. 233
82-3-101	Amended	V. 18, p. 273
82-3-401b	New	V. 18, p. 276
82-3-408	Amended	V. 18, p. 276
82-3-900	through	
82-3-908	New	V. 18, p. 276, 277
82-11-3	Amended	V. 18, p. 234
82-11-4	Amended	V. 18, p. 234
82-11-9	Amended	V. 18, p. 238
82-11-10	Amended	V. 18, p. 239
82-11-11	New	V. 18, p. 239
82-12-2	Amended	V. 18, p. 239

AGENCY 86: REAL ESTATE COMMISSION

Reg. No.	Action	Register
86-1-11	Amended	V. 18, p. 1291

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-31-16	Amended	V. 18, p. 1171
91-31-18	Amended	V. 18, p. 1172
91-31-19	Amended	V. 18, p. 1309
91-31-24	Amended	V. 18, p. 1173

AGENCY 99: DEPARTMENT OF AGRICULTURE—DIVISION OF WEIGHTS AND MEASURES

Reg. No.	Action	Register
99-25-1	Amended	V. 18, p. 189

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-11-5	Revoked	V. 18, p. 1230
100-24-3	New	V. 18, p. 483

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-4-10a	Amended (T)	V. 18, p. 1035

AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES

Reg. No.	Action	Register
105-1-1	Amended	V. 18, p. 1141
105-2-1	Amended	V. 18, p. 1142
105-3-1	Amended	V. 18, p. 1142
105-3-2	Amended	V. 18, p. 1142
105-3-4	Revoked	V. 18, p. 1143
105-3-5	Amended	V. 18, p. 1143
105-3-8	Revoked	V. 18, p. 1143
105-3-9	Amended	V. 18, p. 1143
105-3-11	Amended	V. 18, p. 1144
105-3-12	Amended	V. 18, p. 1144
105-5-2	Amended	V. 18, p. 1144
105-5-3	Amended	V. 18, p. 1144
105-5-6	Amended	V. 18, p. 1144
105-5-7	Amended	V. 18, p. 1145
105-5-8	Amended	V. 18, p. 1145
105-6-2	Amended	V. 18, p. 1145
105-7-2	Amended	V. 18, p. 1146
105-7-4	through	
105-7-9	Amended	V. 18, p. 1146
105-8-1	Amended	V. 18, p. 1146
105-8-2	Amended	V. 18, p. 1146
105-8-3	Amended	V. 18, p. 1146
105-10-1a	Amended	V. 18, p. 1146
105-10-3	Amended	V. 18, p. 1147
105-10-5	Amended	V. 18, p. 1147
105-21-3	Amended	V. 18, p. 1147
105-21-6	Amended	V. 18, p. 1147
105-31-4	Revoked	V. 18, p. 1147

AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery can be found in the Vol. 17, No. 53, December 31, 1998 issue of the Kansas Register. The Kansas Lottery regulations listed below were published after December 31, 1998.

Reg. No.	Action	Register
111-1-5	Amended	V. 18, p. 451
111-2-4	Amended	V. 18, p. 1133
111-2-30	Amended	V. 18, p. 1133
111-2-43	through	
111-2-65	Revoked	V. 18, p. 330
111-2-67	through	
111-2-71	Revoked	V. 18, p. 330, 331
111-2-74	Revoked	V. 18, p. 331
111-2-75	Revoked	V. 18, p. 331
111-2-76	Revoked	V. 18, p. 331
111-2-80	New	V. 18, p. 54
111-2-81	New	V. 18, p. 14
111-2-82	New	V. 18, p. 55
111-2-83	New	V. 18, p. 55
111-2-84	Amended	V. 18, p. 773

111-2-85	New	V. 18, p. 125
111-2-86	New	V. 18, p. 125
111-2-87	New	V. 18, p. 331
111-2-88	through	
111-2-93	New	V. 18, p. 451-453
111-3-1	Amended	V. 18, p. 956
111-3-14	Amended	V. 18, p. 957
111-3-21	Amended	V. 18, p. 958
111-3-22	Amended	V. 18, p. 958
111-4-1364	through	
111-4-1380	New	V. 18, p. 14-19
111-4-1381	through	
111-4-1396	New	V. 18, p. 55-59
111-4-1384	Amended	V. 18, p. 958
111-4-1397	through	
111-4-1412	New	V. 18, p. 125-129
111-4-1413	through	
111-4-1430	New	V. 18, p. 332-336
111-4-1423	Amended	V. 18, p. 453
111-4-1431	through	
111-4-1443	New	V. 18, p. 454-457
111-4-1444	through	
111-4-1468	New	V. 18, p. 773-779
111-4-1457	Amended	V. 18, p. 958
111-4-1469	through	
111-4-1485	New	V. 18, p. 959-963
111-4-1473	Amended	V. 18, p. 1305
111-4-1481	Amended	V. 18, p. 1305
111-4-1485	Amended	V. 18, p. 1306
111-4-1486	through	
111-4-1500	New	V. 18, p. 1133-1137
111-4-1501	through	
111-4-1508	New	V. 18, p. 1306-1308
111-5-24	Amended	V. 18, p. 130
111-5-28	Amended	V. 18, p. 130
111-5-31	Amended	V. 18, p. 457
111-5-75	New	V. 18, p. 59
111-5-76	New	V. 18, p. 457
111-7-66	Amended	V. 18, p. 1137
111-7-76	Amended	V. 18, p. 1137
111-7-77	Amended	V. 18, p. 1137
111-7-78	Amended	V. 18, p. 1138
111-7-78a	New	V. 18, p. 1138
111-7-80	Amended	V. 18, p. 1138
111-7-80a	New	V. 18, p. 1139
111-7-81	Amended	V. 18, p. 1140
111-7-82	Amended	V. 18, p. 1141
111-7-83	Amended	V. 18, p. 1141
111-7-134	Amended	V. 18, p. 336
111-9-97	through	
111-9-102	New	V. 18, p. 337
111-9-103	through	
111-9-108	New	V. 18, p. 963, 964
111-9-106	Amended	V. 18, p. 1308

AGENCY 112: KANSAS RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-10-6	Amended	V. 18, p. 954

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-2-1	Amended	V. 18, p. 1019
115-4-13	Amended	V. 18, p. 1020
115-11-2	Amended	V. 18, p. 48
115-16-4	Amended	V. 18, p. 780
115-17-21	New	V. 18, p. 781
115-30-10	Amended	V. 18, p. 781

AGENCY 117: REAL ESTATE
APPRAISAL BOARD

Reg. No.	Action	Register
117-2-1	Amended	V. 18, p. 294
117-2-2	Amended	V. 18, p. 295

117-3-1	Amended
117-3-2	Amended
117-4-1	Amended
117-4-2	Amended
117-6-1	Amended
117-8-1	Amended

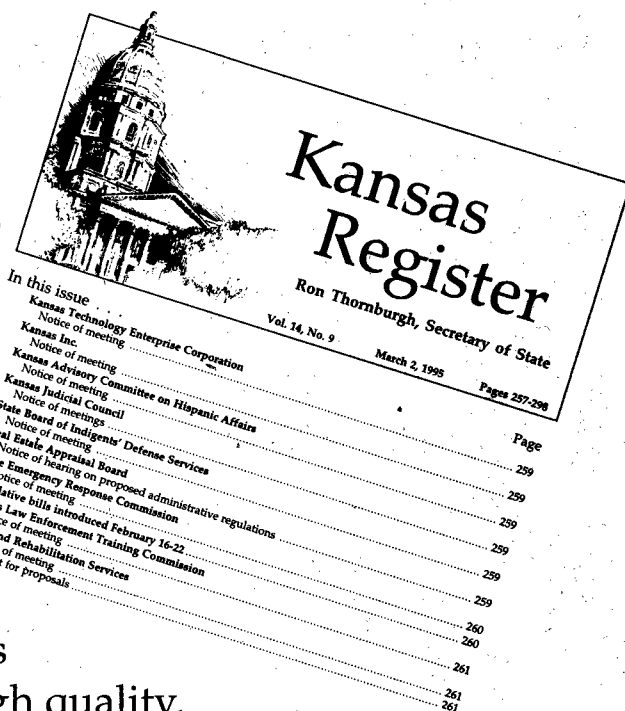
V. 18, p. 296
V. 18, p. 296
V. 18, p. 297
V. 18, p. 298
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V. 18, p. 995

AGENCY 118: KANSAS STATE
HISTORICAL SOCIETY

Reg. No.	Action	Register
118-4-1 through 118-4-4	New	V. 18, p. 672, 673

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